

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VIRGINIA ELIZONDO,
Plaintiff,

VS.

SPRING BRANCH INDEPENDENT
SCHOOL DISTRICT, ET AL.,
Defendants.

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) CIVIL ACTION NO.
) 4:21-CV-1997
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) 8:31 A.M.
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BENCH TRIAL
BEFORE THE HONORABLE SIM LAKE
UNITED STATES DISTRICT JUDGE
SEPTEMBER 10, 2024
VOLUME 2 OF 5

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I N D E X

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Mr. Henry Continued Cross of Duncan Klussmann
(Call to Order of the Court.)

THE COURT: Good morning. Please be seated.

You may conclude your cross-examination.

CROSS-EXAMINATION CONTINUED

BY MR. HENRY:

Q Good morning, Dr. Klussmann. Welcome back.

A Good morning.

Q Yesterday, we were -- we left off talking about the -- the bond that Spring Branch ISD voters voted on and passed in 2007. I want to ask a question, though, about your tenure as superintendent.

During your time as superintendent, did you ever bring to the board of trustees the -- bring up the idea of potentially converting to single-member districts?

A I did not.

Q Did you ever see a petition from the voters requesting that the board take up the issue of converting to single-member districts?

A I don't recall during my tenure.

Q And yesterday you testified that you weren't aware of any school districts in the state that had converted to single-member districts upon a petition of the voters; is that correct?

A I think what I was referring to is a different statute that refers to a home-rule school charter. It's a policy AG -- legal

Mr. Henry Continued Cross of Duncan Klusmann

policy AG is what I was referring to.

Q Can you explain -- I'm sorry. I thought your testimony yesterday was that you had -- you were not aware of any school districts that had converted to SMDs upon a petition of the voters.

A No. The petition I was speaking of the voters is one to do with a home-rule school district.

Q Okay. Are you aware that Beaumont ISD, in 2011, received and voted upon a petition of the voters to convert to single-member districts?

A I'm aware they're a single-member district. I'm not aware of their election.

Q Did you hear the plaintiff's counsel state that 140 different districts in the state use a -- some sort of system that involves single-member districts?

A I do recall that.

Q Do you know how many school districts there are in the state of Texas total?

A Probably over a thousand.

Q I think the number is around 1200. Does that sound about right?

A Probably. You know, with the smaller districts and charter districts, possibly over -- around 1200.

Q So that would be less than -- well, just over 10 percent, if my math is correct, is that about right, for --

Mr. Henry Continued Cross of Duncan Klussmann

08:33:35 1 **A** Yes, if your math is correct.

08:33:37 2 **Q** Okay. Yesterday, you talked about some of the challenges
3 that your students in Spring Branch ISD faced related to
4 poverty, parental involvement, things like that, and my question
5 for you is: What, as superintendent, did you and the school
6 district try -- do to try to alleviate some of those societal
7 factors that the school district didn't cause?

08:34:06 8 **A** Well, luckily, we just had great community involvement
9 within the system across the whole district, and I mentioned
10 Chapel United Methodist had 18 or 19 different programs within
11 the system. We had Memorial Assisted Ministries that's within
12 the district that does a great job, and we partnered with those
13 organizations to provide opportunities and provide programs to
14 help students out to try to level the playing field.

08:34:32 15 We also -- after Katrina where we had a large influx of
16 students from Louisiana, we then looked at the situation -- when
17 I visited schools at that time, the schools that seemed to be
18 handling the transition well had a Community in Schools program,
19 and -- and the ones who were struggling did not have one. So we
20 basically took Community School -- in Schools across the system.
21 If you were a Title I campus, you automatically then had
22 Community in Schools.

08:35:03 23 Those are just a couple of the things that were going on to
24 try to serve all kids in the system.

08:35:07 25 **Q** Is Community in Schools like a mentorship program? What

Mr. Henry Continued Cross of Duncan Klusmann

1 does that consist of?

08:35:11 2 **A** I would call it more of a dropout prevention, case
3 management, providing resources, connecting kids to resources,
4 connecting families to resources. So it's just really a very
5 successful national program and -- and really dropout
6 prevention.

08:35:28 7 **Q** Did Spring Branch ISD participate in the free and reduced
8 lunch program?

08:35:32 9 **A** Oh, yes. Definitely.

08:35:34 10 **Q** Across the district, all campuses?

08:35:36 11 **A** All campuses participated in the program.

08:35:39 12 **Q** Is that a federally funded program?

08:35:40 13 **A** It is.

08:35:46 14 **Q** If you would -- I think I may have to bring a binder up to
15 you, but I'll have you look at Plaintiff's Exhibit 102.

08:35:53 16 **MR. HENRY:** Your Honor, may I approach to give the
17 witness the binder?

08:35:56 18 **THE COURT:** Yes.

08:35:57 19 **MR. HENRY:** Thank you.

08:36:07 20 **BY MR. HENRY:**

08:36:08 21 **Q** There are tabs here. And so 102.

08:36:28 22 **A** Okay.

08:36:29 23 **Q** Exhibit 102 is an exhibit --

08:36:32 24 **MR. HENRY:** And, Your Honor, do you have a binder of
25 plaintiff's exhibits before you?

Mr. Henry Continued Cross of Duncan Klusmann

1 **THE COURT:** I do, but why don't you put it on the
2 screen.

3 **MR. ABRAMS:** Richard, would you display it for us?
4 Thank you.

5 **BY MR. HENRY:**

6 **Q** Is this Exhibit 102 the same --

7 **A** Looks -- yes, it looks to be the same.

8 **Q** Okay. And then there was an exhibit -- I'm sorry, I don't
9 have the number in front of me -- that was demographics of the
10 school district, and it showed that the school district had a
11 greater percentage of Hispanic students enrolled in the school
12 district than non-Hispanic students, correct?

13 **A** Correct.

14 **Q** Those graphics that those pie charts that show the
15 demographics, is it correct that those were for student
16 populations, not voter populations?

17 **A** Correct.

18 **Q** Are many of your students north of I-10 part of families
19 that are new to the United States?

20 **A** Well, it's hard to know exactly. I would assume a portion
21 of them are recent immigrants to the U.S., but it's hard to know
22 exactly since we don't --

23 **Q** Right.

24 The district doesn't keep tabs on immigration status,
25 correct?

Mr. Henry Continued Cross of Duncan Klusmann

08:37:51 1 **A** No. We do not request immigration status, and so it's --
2 you can estimate, but we're not sure exactly what population on
3 the north side would be recent immigrants.

08:38:02 4 **Q** But it would be correct, then, that if their parents were
5 not -- were -- recently moved to the United States, that they
6 may not be citizens and, therefore, not registered or eligible
7 voters, correct?

08:38:15 8 **A** That's correct.

08:38:18 9 **Q** If you would also please turn to Plaintiff's Exhibit 108.

08:38:33 10 **A** Okay.

08:38:35 11 **Q** Yesterday, you were asked some questions about this
12 particular graphic, and it looks, from the title, that it's
13 about "Accountability Ratings - Student Achievement"; is that
14 correct?

08:38:46 15 **A** Correct.

08:38:47 16 **Q** Is it correct that student achievement is just one of the
17 indicators that TEA looks at when giving an overall grade?

08:38:55 18 **A** Correct.

08:38:57 19 **THE COURT:** I have a question about that.

08:38:58 20 **THE WITNESS:** Yes, sir.

08:38:59 21 **THE COURT:** Why is Northbrook Middle smaller -- it
22 seems to be a smaller middle school zone. It only has two
23 elementary schools, and the -- can you explain that, just,
24 difference?

08:39:17 25 **THE WITNESS:** Yes, sir. So in -- this is my

Mr. Henry Continued Cross of Duncan Klusmann

1 understanding of it. It -- it -- this all occurred before I was
2 superintendent, but in 1984, the district had closed many
3 schools, and it closed Northbrook Middle School. So in the
4 '50s, '60s, '70s, Spring Branch grew drastically, and then,
5 overnight, the population just dropped of school-age students,
6 and they needed to close schools.

08:39:41 7 So they closed two high schools; I think two middle
8 schools. Northbrook Middle School was closed. It was
9 reopened -- I came to the district in '96. It was reopened
10 right before that. So I think at the time they redrew the
11 boundary, and it felt like that -- demographically that's how it
12 needed to be drawn based on the population.

08:39:58 13 It's -- it's always been run as a smaller middle
14 school because of that. It also is a campus that doesn't --
15 it's not real large as a middle school campus. So I think
16 that's why that zone looks smaller geographically.

08:40:10 17 **THE COURT:** Thank you.

08:40:11 18 **THE WITNESS:** There are several apartment complexes
19 though, in that zone --

08:40:14 20 **THE COURT:** Okay.

08:40:14 21 **THE WITNESS:** -- and that would, you know, account for
22 a large amount of population.

08:40:17 23 **THE COURT:** Thank you.

08:40:18 24 **BY MR. HENRY:**

08:40:18 25 **Q** Again, so looking at this graphic, which is Plaintiff's

Mr. Henry Continued Cross of Duncan Klusmann

1 Exhibit 108, that doesn't take into consideration the Academic
2 Growth domain, correct?

08:40:27 3 **A** Correct.

08:40:28 4 **Q** And it doesn't take into consideration what's called the
5 Relative Performance domain?

08:40:33 6 **A** Yes. I'm not as familiar with that because that's come
7 along since I -- since (inaudible) --

08:40:37 8 **Q** Okay. And also the --

08:40:37 9 **THE REPORTER:** I'm sorry. I didn't hear the end.

08:40:40 10 **THE WITNESS:** Yes. I'm not as familiar with that
11 because it came along after -- it was developed after I had
12 retired. So...

08:40:47 13 **BY MR. HENRY:**

08:40:48 14 **Q** And it also doesn't take into consideration the -- what's
15 called Closing the Gaps domain, correct?

08:40:53 16 **A** Correct. It's the student achievement.

08:40:55 17 **Q** On this graphic it shows Landrum Middle School as not rated,
18 and that would be in the far right-hand side.

08:41:09 19 There's a list, and Landrum Middle School is listed as not
20 rated?

08:41:12 21 **A** Yes.

08:41:13 22 **Q** If you would -- I'll bring you another binder -- but turn to
23 Plaintiff's Exhibit 28, or perhaps we can just project it on the
24 screen and make it easier.

08:41:22 25 **MR. HENRY:** Thank you very much.

Mr. Henry Continued Cross of Duncan Klusmann

Okay. On the next page, I believe Landrum Middle School appears.

I'm sorry, I believe it's on the page before that.

It's towards the bottom, about four from the bottom.

BY MR. HENRY:

Q Do you see the line for Landrum Middle School?

A Yes, I do.

Q Okay. And did Landrum receive an overall rating?

A I would --

Q Of a C; is that accurate?

A I can't see the whole...

MR. HENRY: If you would zoom out so we can see the heading of that column, please.

A Based on this, that's what it appears they received.

BY MR. HENRY:

Q Okay. So let's take a look at Northbrook Middle, another -- it's a couple of lines down, another school that was listed as not rated on graphic 108.

What did they receive for their overall score?

A It looks like a B., but could you show me the -- the overall document without that highlighted? Yes. Can I look at this just a second, please?

Q Yes, absolutely.

A (Witness reviews document.)

Yes. I think the scores for both these campuses represents

Mr. Henry Continued Cross of Duncan Klusmann

1 something that was happening across the state that educators
2 acknowledged coming out of the pandemic. The growth scores were
3 extremely high because students had performed very poorly, and
4 then all of a sudden they were performing better. So you get an
5 inflated growth score.

08:43:18 6 So often what people did was people paid attention to the
7 student achievement score because there was some indication that
8 the next year, which those scores -- those ratings had not been
9 released, they're still being held because of court cases. But
10 as you can see, Northbrook had an 81 in growth, but they had a
11 70 in achievement. So their students were performing at a 70 as
12 far as actual achievement, but coming out of the pandemic,
13 across the state educators acknowledged that the growth scores
14 were very inflated at that time.

08:43:48 15 Q Are you aware that the district as a whole received a B?

08:43:51 16 A I don't know the over- -- it looks like, based on this
17 document, that's what it's showing.

08:43:56 18 Q Yesterday, you testified a little bit about Spring Branch
19 ISD making the decision to have to close and consolidate some
20 schools on the north side.

08:44:08 21 When you were a superintendent -- you know, you also
22 testified about some budget issues that you encountered as a
23 result of the 2008 housing crisis.

08:44:21 24 When you were superintendent, did you go through the
25 process of making those cuts happily or reluctantly?

Mr. Henry Continued Cross of Duncan Klusmann

08:44:28 1 **A** Oh, they're always made reluctantly.

08:44:30 2 **Q** And that's because, when you have to cut a dollar from a
3 school budget or from a program or from a campus, it's going to
4 impact kids because, otherwise, that dollar wouldn't have been
5 allocated there in the first place, right?

08:44:43 6 **A** In many cases. There's always some efficiency that you can
7 drive through the system, but in most cases at that level,
8 you're going to affect programming.

08:44:50 9 **Q** Are you aware that the Spring Branch ISD -- the federal
10 COVID funding that Spring Branch ISD was receiving has
11 essentially dried up?

08:45:01 12 **A** The -- I think -- if I recall, I think there was an
13 extension. This may be the final year you can use those
14 dollars.

08:45:10 15 **Q** So those dollars haven't been promised to continue
16 perpetually, correct?

08:45:15 17 **A** No. They were clearly to be short-term dollars.

08:45:18 18 **Q** And that the -- are you aware that the state government --
19 state legislature hasn't passed a new school funding bill, which
20 has really hampered SBISD's spending power?

08:45:30 21 **A** I'm aware of that, yes.

08:45:31 22 **Q** The federal and state governments haven't done any favors to
23 public schools in Texas budget-wise, have they?

08:45:37 24 **A** Well, the infusion of the extra dollars were great favors.
25 They were a significant -- probably the most infusion ever in

Mr. Henry Continued Cross of Duncan Klusmann

1 that case. Clearly, the state has struggled to address school
2 financing.

08:45:50 3 Q Yesterday, we looked at a graphic of school closures north
4 of I-10.

08:45:56 5 Are you aware what the enrollment rate was at those schools
6 that were closed and consolidated?

08:46:07 7 A I know that they -- I looked at it once, and I think they
8 were, you know, under capacity and had been trending under
9 capacity. Obviously, enrollment's down from the pandemic, but
10 they were under capacity, if I recall.

08:46:17 11 Q And so are you aware that one of the motivators for the
12 school board in closing those schools and consolidating them,
13 was so that students could attend full schools with all
14 available teachers and programs and things like that?

08:46:32 15 A I'm sure that was a factor.

08:46:34 16 Q And were you aware that one of the factors in doing so was
17 to ensure that resources, dollars were allocated efficiently so
18 that dollars weren't spent on half-filled schools; instead,
19 they're spent on maybe one campus that's fully full?

08:46:50 20 A I'm sure that was a factor.

08:46:55 21 Q With regard to the SKY program, are you aware that SBISD
22 replaced the SKY program at Northbrook High School with an early
23 college program?

08:47:03 24 A I -- I'm aware that there's a new program. I would -- I
25 would kind of say replacing is -- it's -- SKY was a unique

Mr. Henry Continued Cross of Duncan Klusmann

1 program. So I'm sure they replaced it with some type of
2 programming.

08:47:15 3 Q And are you aware that this early college program allows
4 students at Northbrook to graduate from high school with an
5 associate's degree?

08:47:23 6 A I'm not aware of that.

08:47:26 7 Q Yesterday, you testified about a few students who went on to
8 higher education, one at St. John's -- or, sorry, Johns Hopkins
9 and one at Michigan.

08:47:40 10 Were both of those students SBISD grads?

08:47:44 11 A They were.

08:47:45 12 Q Do you recall what high schools they graduated from?

08:47:48 13 A Spring Woods High School.

08:47:50 14 Q I'm sorry. Say that --

08:47:50 15 A Spring Woods High School.

08:47:52 16 Q Spring Woods High School?

08:47:54 17 And you said student Isaiah (phonetic) received a full-ride
18 scholarship to University of Michigan?

08:47:59 19 A Yes.

08:47:59 20 Q And the other student, Rafael (phonetic), achieved a
21 full-ride scholarship to Johns Hopkins?

08:48:05 22 A Yes.

08:48:06 23 Q Was that on the strength of his -- their SBISD educations
24 that they received from high school?

08:48:13 25 A I mean, a strength on, for both of them, their personal

Mr. Henry Continued Cross of Duncan Klussmann

1 talents, obviously enhanced by their experience in the district.
2 But very much on their personal talents.

08:48:24 3 Q When you were superintendent, did you make an effort to talk
4 to a wide range of teachers across the district to get their
5 perspectives?

08:48:34 6 A I did.

08:48:35 7 Q And a wide range of students and parents across the entire
8 district to get their perspectives?

08:48:40 9 A I did.

08:48:41 10 Q Did each campus at SBISD have a campus improvement
11 committee?

08:48:45 12 A They did. Some functioned better than others, but they --
13 by law, you're supposed to have a campus improvement committee.

08:48:53 14 Q And who all's included on a campus improvement committee?

08:48:57 15 Let's just pick Northbrook High School, for example.

08:49:01 16 A Typically, it's supposed to be teachers, parents, a
17 community member, and a business member from the business
18 community.

08:49:07 19 Q And was this a way of getting the community and parents more
20 involved in the governance of the school and trajectory of the
21 school?

08:49:15 22 A Yeah. It's a law from many years ago, and I think that is
23 the intent of it. I think some schools and some districts
24 struggle with that, but that is the intent of it.

08:49:25 25 Q With regard to recent board elections, since we are here to

Mr. Henry Continued Cross of Duncan Klusmann

1 talk about voting and the Voting Rights Act, before COVID --

2 remind me again: When did you retire as superintendent?

08:49:43 3 **A** 2015.

08:49:44 4 **Q** 2015.

08:49:45 5 So then it would be correct that the plaintiff's expert has
6 not analyzed any election that occurred during your tenure -- or
7 at least, other than the 2015 election, during your tenure as
8 superintendent, correct?

08:50:04 9 **A** Who are you referring to as the plaintiff's expert?

08:50:07 10 **Q** Dr. Stein.

08:50:08 11 **A** I'm not sure.

08:50:08 12 **Q** Okay. Is it your opinion that the board is currently
13 constructed, adheres to a conservative Republican ideology?

08:50:20 14 **A** Possibly. I don't know their individual ideology.

08:50:25 15 **Q** Is it your observation that board elections in recent years
16 have become partisan affairs?

08:50:32 17 **A** Across the state and across the country, that's been the
18 trend.

08:50:37 19 **Q** Did you run for U.S. House District 38 in 2022?

08:50:42 20 **A** I did.

08:50:43 21 **Q** Did you run as a Democrat?

08:50:45 22 **A** I did.

08:50:45 23 **Q** And is it correct that you won the Democratic nomination for
24 that seat?

08:50:50 25 **A** I did.

Mr. Henry Continued Cross of Duncan Klusmann

Q During your campaign, you even block walked with Amy O'Rourke, the wife of Beto O'Rourke, correct?

A Yes. I know Amy well, and -- I didn't walk with Amy. I -- actually, I just went to see her, where she was walking, to say hi to her.

Q Is it correct that, in your election, Wesley Hunt prevailed in that election for House District 38?

A Definitely. Yes.

Q And is it correct that Mr. Hunt is a pretty far-right Republican?

A He's a Republican, and, you know, I'm not going to characterize his -- how far right he is.

Q Have you called him a Trump extremist before?

A I have.

Q Is it correct that Mr. Hunt is African American?

A He is.

Q As -- have you ever been eligible to vote in SBISD elections?

A No.

Q Is that because you never lived in the district?

A Yes. I never lived in the district.

MR. HENRY: I'll pass the witness.

THE COURT: Any rebuttal?

MR. ABRAMS: Just very briefly, Your Honor.

REDIRECT EXAMINATION

Mr. Abrams Redirect of Duncan Klussmann**BY MR. ABRAMS:**

Q Dr. Klussmann, let's take a look at Plaintiff's Exhibit 28, please.

You were asked some questions -- you were asked -- and we'll blow it up in just a second.

You were asked some questions about potential motivations for school closures, and counsel suggested that underutilized campuses would be a factor taken into account when a responsible board would close a campus, right?

A Correct.

Q Let's look at Exhibit 28, because it reflects the TEA data as of 2022 for the various schools in Spring Branch. Let's start with Spring Shadows Elementary, one of the elementaries on the north side and the economically disadvantaged zone that was closed.

MR. ABRAMS: Could you pull that up for us and blow that up, please, Richard, so we can see the Spring Shadows entry?

It's about halfway -- there we go. Thank you.

BY MR. ABRAMS:

Q And the one, two, three -- fourth column shows the total number of students, does it not?

A Yes, it does.

Q And what -- how many students does the TEA report and the district reports to TEA were --

Mr. Abrams Redirect of Duncan Klussmann

08:53:14 1 **A** For 2022, it was 617.

08:53:17 2 **Q** Okay. And then the next elementary school that was closed
3 by the board last year was Treasure Forest.

08:53:23 4 Could we go down and look and see how large the population
5 of the Treasure Forest school was? That's -- there we go.

08:53:31 6 Treasure Forest was 429.

08:53:33 7 **A** Correct.

08:53:34 8 **Q** Are you aware that the district has just trumpeted the fact
9 that they've built a brand new campus at Memorial Drive
10 Elementary, which is located in the heart of the Memorial
11 Villages on the south side?

08:53:47 12 **A** I'm aware that it's been rebuilt.

08:53:49 13 **Q** And that was done under one of the bond campaigns?

08:53:52 14 **A** Correct.

08:53:52 15 **Q** And do you know the approximate cost of that campus?

08:53:56 16 **A** I do not know in today's terms.

08:53:58 17 **Q** Based upon your prior experience, do you agree with me that,
18 literally, it takes millions and millions of dollars to build a
19 brand new elementary school campus?

08:54:07 20 **A** I mean, speaking to a superintendent in the state recently,
21 I was surprised at how expensive campuses, from the time when we
22 rebuilt 13, how -- the difference in the cost today and in such
23 a short period of time.

08:54:20 24 **Q** So Memorial Drive Elementary that we'll look at in just a
25 second, the district has -- on the south side, it takes students

Mr. Abrams Redirect of Duncan Klusmann

1 from the Memorial Villages, and it was built from scratch for,
2 we'll cover later, millions of dollars.

08:54:34 3 Let's look and see what the enrollment of Memorial Drive
4 Elementary was per the TEA, one of the campuses that was not
5 only not closed, it wasn't consolidated, there weren't students
6 moved there.

08:54:44 7 **MR. ABRAMS:** Can you see Memorial Drive Elementary,
8 Richard? It's about a third of the way down.

08:54:50 9 **BY MR. ABRAMS:**

08:54:51 10 **Q** How many students were at Memorial Drive Elementary
11 according to the TEA as of the 2022 state reporting?

08:54:59 12 **A** 391.

08:55:03 13 **Q** Thank you.

08:55:03 14 You were asked a variety of questions about initiatives
15 that the district has made to try to address the needs of its
16 children, correct?

08:55:13 17 **A** Correct.

08:55:14 18 **Q** And those initiatives come from, initially, the school
19 administration, that is, the staff and the superintendent,
20 correct?

08:55:20 21 **A** Correct.

08:55:21 22 **Q** But, ultimately, different decisions like budgetary
23 decisions rest with the board?

08:55:26 24 **A** Correct.

08:55:27 25 **Q** Ultimately, decisions about where the voters are going to

Mr. Abrams Direct of James Shaddix

1 vote is decided by the board?

08:55:32 2 **A** Correct.

08:55:33 3 **Q** Ultimately, decisions about what schools to close, whether
4 in impoverished areas in the north or wealthy areas in the
5 south, comes from the board?

08:55:42 6 **A** Correct.

08:55:44 7 **MR. ABRAMS:** Pass the witness.

08:55:45 8 **THE COURT:** You may return to your seat.

08:55:46 9 You may call your next witness.

08:55:50 10 **MR. ABRAMS:** Your Honor, at this time the plaintiff
11 calls James Shaddix.

08:55:54 12 **THE COURT:** Come around, sir, and be sworn.

08:56:16 13 Good morning, sir. Please raise your right hand.

08:56:19 14 *(Witness sworn.)*

08:56:26 15 **THE COURT:** Please have a seat. Please adjust the
16 microphone so that you're comfortable and the microphone is
17 close enough so that we can hear you.

08:56:36 18 Mr. Abrams, you may proceed.

08:56:38 19 **MR. ABRAMS:** Thank you, Your Honor.

08:56:38 20 **JAMES SHADDIX, DULY SWORN, TESTIFIED:**

08:56:38 21 **DIRECT EXAMINATION**

08:56:39 22 **BY MR. ABRAMS:**

08:56:40 23 **Q** Mr. Shaddix, you've already been introduced.

08:56:42 24 I want to let you know that today I'm going to cover three
25 topics with you. First, I want to talk about your familiarity

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1 with the conditions in the school district, north and south;
2 second, board and community attitudes toward the Hispanic
3 community and candidates; and, third, the responsiveness of the
4 board to the concerns of the Hispanic community, okay?

08:57:09 5 **A** Yes, sir.

08:57:11 6 **Q** Off the bat, let me just say: It's no secret you and I have
7 known each other for decades through common community activities
8 in Spring Branch, right?

08:57:20 9 **A** That's right.

08:57:20 10 **Q** We've served and, in some instances, continue to serve on
11 common nonprofit boards, correct?

08:57:26 12 **A** We do.

08:57:27 13 **Q** All right. Before we discuss your personal background,
14 let's talk about how you are familiar with Spring Branch
15 Independent School District, its students, its schools, its
16 voters, and its method of electing trustees, okay?

08:57:41 17 **A** Yes.

08:57:42 18 **Q** Where do you live?

08:57:43 19 **A** I live at 11920 North Durrette Drive in Houston. It's --

08:57:49 20 **Q** Is that north or south of I-10?

08:57:50 21 **A** It's on the south side of I-10.

08:57:53 22 **Q** Are you familiar with the term "Memorial Villages" to refer
23 to six incorporated cities in the district?

08:58:00 24 **A** I am.

08:58:01 25 **MR. ABRAMS:** Let's look at Exhibit 8, please, Richard.

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08:58:05 1 **BY MR. ABRAMS:**

08:58:06 2 **Q** Does Exhibit 8 show the general location of the various
3 villages known as the Memorial Villages?

08:58:12 4 **A** It does.

08:58:12 5 **Q** Where, in relation to the Memorial Villages, is your home
6 located?

08:58:18 7 **A** My home is located just on -- basically, across the street
8 from the south side of Bunker Hill.

08:58:28 9 **Q** (Indicating.)

08:58:29 10 **A** Right there.

08:58:29 11 **Q** Okay. Pointing at the screen, with some difficulty, is it
12 in that little nook?

08:58:35 13 **MR. ABRAMS:** There we go. Thank you.

08:58:37 14 **BY MR. ABRAMS:**

08:58:37 15 **Q** Is that generally where your home is located?

08:58:39 16 **A** You see where that street divides?

08:58:42 17 **Q** Yes.

08:58:42 18 **A** It may not be visible up there, but, yes, that's where it
19 is.

08:58:46 20 **Q** Very good.

08:58:48 21 How long have you lived in Spring Branch?

08:58:52 22 **A** Since 1987.

08:58:54 23 **Q** Are you a parent of children who've gone through the
24 Spring Branch schools?

08:58:58 25 **A** I am. Two sons.

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Q Let's look at a map of the Spring Branch schools.

MR. ABRAMS: Exhibit 9, please, Richard.

BY MR. ABRAMS:

Q Did any of your children attend various of these schools
and, if so, which ones and where, roughly, are they located?

A They both attended Frostwood Elementary, which is No. 104 --

Q And that's going to be a red dot; is that right?

A Yes.

Q And on the screen --

MR. ABRAMS: There we go. Thank you for blowing it
up.

BY MR. ABRAMS:

Q 104 is at the corner of Gessner and Memorial?

A That's correct.

Q All right. And what other schools did any of your children
attend in the district?

A Memorial Middle School. I'm not sure what the number is,
but --

Q The key says it's 42, and it's green. So can you
identify -- there we go.

A There, yes. Memorial Middle School.

Q And then, finally, did any of your children attend high
school in the district?

A My younger son attended Memorial High School.

Q And that's a blue dot, 001?

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09:00:06 1 **A** Yes, it is.

09:00:07 2 **Q** Okay. All of the schools your children attended, then, were
3 located south of 10?

09:00:13 4 **A** Yes, they were.

09:00:13 5 **Q** Are you presently retired?

09:00:15 6 **A** I am.

09:00:16 7 **Q** Before you retired, what'd you do for a living?

09:00:20 8 **A** I was an attorney. I spent most of my career with Pennzoil
9 Company. I was general counsel of Pennzoil Company for about
10 14 years before I retired.

09:00:32 11 **Q** Before you -- your work for and with Pennzoil, what were you
12 doing?

09:00:37 13 **A** I worked for the criminal investigation division of the
14 Internal Revenue Service, which is a U.S. Treasury function.

09:00:46 15 **Q** Have you and your wife been extensively involved in
16 community activities in the Spring Branch district?

09:00:51 17 **A** We have.

09:00:53 18 **Q** Could you give -- give us an understanding of what you and
19 your wife have done in the way of community involvement related
20 to the children in Spring Branch?

09:01:02 21 **A** Yes, I'd be happy to. We began, like most parents do, when
22 our kids were in elementary school. My wife was very active in
23 the PTA at Frostwood Elementary, Memorial Middle School, and was
24 president of the PTA at Memorial High School. In addition to
25 that, she has -- was involved for a long time in the SpringBoard

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mentoring program, which is a wonderful program provided by the Spring Branch Independent School District.

Our church adopted Hollibrook Elementary and provided mentors, as many as we could, to that school, and both my wife and I mentored. I actually mentored a young man from the third grade all the way through high school.

She also was involved in the Collegiate Challenge program, which is a program that assists juniors and seniors in -- oftentimes, first in their family -- to seek a college education to help them with both the application process, as well as the financial aid process.

I, myself, was involved initially with my kids in the Spring Branch Memorial Sports Association. As they got older and as I -- more opportunities opened up, I was involved in an organization called the Community Network at Memorial High School, which was a coalition of parents and community members. Its overall purpose was to encourage kids to make good decisions in high school, particularly about drinking and drugs.

I also was active in the Fathers' Forum, which was a organization that met -- I think we met monthly, if I remember correctly. Dads of boys or girls at the high school, we really focused on exchanging ideas, exchanging issues that we were dealing with and trying to communicate more effectively as parents one to the other.

I don't recall exactly what year it was, but -- well, I do.

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1 It was in about 2012. My mentee from Holli- -- that originated
2 at Hollibrook got to Northbrook High School, and it came to my
3 attention that Northbrook's booster club had dissolved ten years
4 earlier, booster club being a support for the athletic programs,
5 band, marching -- I'm not sure what they called it, but -- drill
6 team. And so I undertook to restart the booster club and spent
7 six years running that booster club, and then was able to
8 successfully hand it off to parents at Northbrook High School.

09:04:47 9 I -- there are other things I've done. I've done a lot of
10 things with the school district specifically. I've been in the
11 Spring -- I've been on the Spring Branch Education Foundation
12 for over 20 years.

09:05:05 13 Q What is the Spring Branch Education Foundation?

09:05:08 14 A It's a 5013(C) [sic] nonprofit whose primary purpose is to
15 run money -- to raise money to supplement activities at the
16 district which are not things they're able to budget for. We do
17 scholarships. We do grants to teachers. We do campus grants
18 for projects on individual campuses.

09:05:37 19 Those are kind of our primary ob- -- and we provide
20 scholarships, a lot of scholarships to graduating seniors. I --
21 I've also been a board member of the Spring Branch Family
22 Development Center for ten-plus years, I guess, and as I think
23 has been discussed earlier, it's located right in the heart of
24 the poorest part of the district, and --

09:06:10 25 Q Let me digress for just a moment --

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09:06:12 1 **A** Sure.

09:06:12 2 **Q** -- and let's put some of these things on the map.

09:06:14 3 **MR. ABRAMS:** Richard, would you please put up again
4 Plaintiff's Exhibit No. 9, a map of the location of various
5 SBISD schools?

09:06:20 6 **BY MR. ABRAMS:**

09:06:20 7 **Q** You indicated that your mentee started at Hollibrook.

09:06:28 8 Can you locate Hollibrook on Exhibit 9? It's going to be a
9 red dot because it's an elementary school. Do you see it in the
10 upper right-hand corner?

09:06:38 11 **A** 105, just a little above the Landrum red area.

09:06:43 12 **Q** And then you indicated your mentee ultimately went to
13 Northbrook High School. That's going to be a blue dot.

09:06:50 14 **MR. ABRAMS:** Can you back that out for us, Richard,
15 the image, so that we can find Northbrook High School?

09:06:58 16 **BY MR. ABRAMS:**

09:06:58 17 **Q** That's blue dot 5, is it not?

09:07:00 18 **A** Yes, it is. And he also attended Northbrook Middle School.

09:07:04 19 **Q** And Northbrook Middle School is going to be a green dot, and
20 that's 47; is that right?

09:07:13 21 **A** Let me spot it here.

09:07:18 22 **THE WITNESS:** Oh, thank you.

09:07:19 23 **A** Yes. Thank you. That is correct.

09:07:20 24 **BY MR. ABRAMS:**

09:07:22 25 **Q** Your mentoring activities, then, involved children who went

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through the schools on the north side.

You also mentioned that you -- I think you just mentioned you've been involved with the Family Development Center as well?

A Yes. I've been on that board for about ten years or so, and I'd be happy to explain what they do, if you --

Q Let's deal with the geography first.

A Okay.

Q Where is the Family Development Center located with reference to what used to be the pre-K center the district operated at the center, Panda Path?

A Well, it's located at 8575 Pitner Road, but I'm looking for the number.

Q The pre-Ks are yellow dots, and may I direct your attention to 129 --

A That's it. That is it. Close -- very close to Hollibrook.

Q Now, you mentioned your work with the education foundation. The fact is you and your wife, Mallory, were recipients of the Lifetime Achievement award from that foundation for your extensive volunteer activities in the community, right?

A That's correct.

Q Now, you -- you indicated, but you've not yet itemized, that you've been involved in countless school district committees.

Can you give Judge Lake some understanding about the depth of your knowledge about the school district based upon your committee assignments?

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09:08:48 1 **A** Yes. I -- I've been asked to be part of, I think, most of
2 the committees that have been formed by the district for various
3 purposes over the last 20 years, certainly over the last
4 15 years. I would point to my participation on the 2007 and
5 2017 bond committees. In fact, I co-chaired a political action
6 committee that campaigned in support of the 2017 bond, and as
7 you know we were both -- both those bonds were successful.

09:09:32 8 I -- I've also been involved -- or was involved, from the
9 inception, of the idea of building a career and technical
10 education center in the Spring Branch school district area,
11 something where -- well, something that I believe is incredibly
12 important to the district and its ability to -- well, its
13 ability to meet its T-2-4 goals. The career and technical
14 education center, which is now being built, was a long time in
15 getting to that point.

09:10:19 16 The pandemic interrupted our progress, but it offers over
17 30 career paths which provide professional training,
18 certification, and opportunities for students who choose to go
19 to work right out of high school. It also augments their
20 ability to work while attending college and make a -- an
21 acceptable wage, and it also is compatible with some of the
22 fields of study that they choose for their higher education.

09:11:04 23 I think --

09:11:05 24 **Q** Is another of your committee assignments the school finance
25 advocacy team?

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09:11:10 1 **A** Yes.

09:11:11 2 **Q** What's that?

09:11:12 3 **A** It was formed last year in anticipation of what I think was
4 the 84th legislative session in effort to promote more funding
5 for public education. I thought the district and members of the
6 district's board generally did a very good job of advocating for
7 that. Unfortunately, we got nothing from the state, and we are
8 currently re- -- re-upping that group and expanding the size of
9 that group, providing training to people about public education
10 finance, which is not the most simple subject in the world, and
11 we're going to make another run at it in this next legislative
12 session.

09:12:17 13 **Q** As a result of your service on the various district
14 committees you've described, your volunteer work, have you had
15 occasion, literally, to be in virtually every school in the
16 Spring Branch Independent School District?

09:12:32 17 **A** I think so, yeah. Over the years, for various reasons, yes.

09:12:36 18 **Q** Why -- why, if you and Mallory live on the south side in
19 Memorial and your children are now grown, have you remained so
20 active in the school district?

09:12:47 21 **A** Well, I think there's a couple of reasons. One is I
22 personally believe that public education is the key to solving a
23 lot of the country's problems. The better we educate people,
24 the fewer problems we have.

09:13:04 25 The second thing is that although I was very active in the

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1 schools that my kids attended, once they graduated, there were
2 plenty of people standing behind us looking for the opportunity
3 to do those types of things, whether it was PTA or booster club
4 or whatever. And, also, I had learned enough about the needs on
5 the north side that I saw a place where my time could be well
6 spent. And the more time I spent over there, the more I learned
7 about the north side, and a lot of it was pretty eye-opening,
8 but I think I understand the community well now.

09:13:54 9 Q Let's turn now to the first topic I indicated we were going
10 to spend some time on, and that is familiarity with the
11 conditions in the district, north and south. Let me ask you to
12 take a look at Plaintiff's Exhibit 86, please.

09:14:10 13 A Okay.

09:14:12 14 Q This is a document produced by the district, and it's a
15 graphic that was distributed to one of the committees you were
16 on, the school finance advocacy committee or team. Are you
17 familiar with it?

09:14:24 18 A I am.

09:14:25 19 Q And does it, like some other documents we've seen, summarize
20 the demographics of the district, that is to say the racial and
21 ethnic composition and the economic disadvantaged portion of the
22 children?

09:14:37 23 A Yes, it does.

09:14:39 24 Q And does it also indicate what percentage of the children in
25 the district are characterized as English learners?

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09:14:45 1 **A** Yes, it does. 36 percent.

09:14:48 2 **Q** Is this, then, a snapshot of the economic, language, and
3 ethnic demographics of Spring Branch ISD as reported by the
4 district?

09:15:01 5 **A** Yes.

09:15:02 6 **Q** Let's now look at Exhibit 83. This is another graphic
7 distributed by the district to you on your school finance
8 advocacy team, and it emphasizes what?

09:15:11 9 **A** Well, it emphasizes the vastly different demographics that
10 exist between the school districts in Texas.

09:15:19 11 **MR. ABRAMS:** Let's look at the next page of 83,
12 please, Richard.

09:15:23 13 **BY MR. ABRAMS:**

09:15:24 14 **Q** Focusing on enrollment, for example, does the district
15 contrast itself with other districts in the state?

09:15:32 16 **A** Yes, it certainly does. You can see HISD is almost 200,000
17 people, and if you get out in far West Texas, you have some very
18 small districts. We're sitting in the middle at about 33.6.

09:15:50 19 **Q** So in addition to distinguishing itself based upon
20 enrollment from other districts, let's look at the next slide.

09:15:54 21 How else does the district represent to the public its
22 distinguished from other districts?

09:16:00 23 Second -- next slide deals with what?

09:16:04 24 **A** Well, this is -- this slide represents the number of
25 property tax dollars collected per student in these three

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1 districts. You can see that Spring Branch is a property rich
2 district, as -- you can see Wink, which is in the middle of the
3 oil country, which is an outlier, but an incredibly wealthy
4 property -- or incredibly valuable property, excuse me. And
5 then Boles, which has very little property value at all.

09:16:46 6 **MR. ABRAMS:** Richard, I'm not sure if there's another
7 page. If there is, let's look at -- there we go.

09:16:52 8 **BY MR. ABRAMS:**

09:16:52 9 **Q** And then the district also, in its published reports to it
10 committee on school finance distinguishes itself with respect to
11 its demographics, right?

09:17:00 12 **A** Absolutely. The 59 percent economically disadvantaged
13 students is a distinguishing factor.

09:17:08 14 **THE COURT:** Mr. Abrams, what do you perceive to be the
15 relevance of these last three exhibits?

09:17:13 16 **MR. ABRAMS:** The relevance, Your Honor, is that one of
17 the defenses that the district is going to -- has asserted in
18 pleadings is that they should not be forced to have a
19 single-member district because most school districts in the
20 state of Texas, a larger percentage are at-large, and there are
21 very -- relatively few. I think they said less than 10 percent
22 that are single-member districts.

09:17:35 23 We're trying to show that the Spring Branch district
24 publicly shows it's different from most of these other
25 districts, and it's going to be those unique circumstances that

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we're providing you evidence of --

THE COURT: Okay.

MR. ABRAMS: -- that warrant why this district,
unlike --

THE COURT: All right. You've answered the question.

MR. ABRAMS: Thank you.

THE COURT: Ask your next question, please.

MR. ABRAMS: Thank you, Your Honor.

BY MR. ABRAMS:

Q So the message the district has communicated publicly is
it's different from most of these other school districts, right?

A Absolutely.

Q Now let's discuss your personal experience and knowledge of
the conditions south of I-10 in the heart of Memorial where
you've lived for decades.

What's the factual basis for your knowledge about the
economic, ethnic, and cultural conditions that exist between the
north and the south? Let's start with -- let's start with the
south.

MR. HENRY: Your Honor, I object to this. I think
this would be expert -- calls for expert testimony of a
demographer unless he's just going to testify about specific
experiences he had --

THE COURT: No, I'll let him answer, but at some point
it may become repetitious.

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Go ahead. Lay the foundation, and then ask the question. You've already laid the foundation, so just move along.

BY MR. ABRAMS:

Q Let's turn to the demographic issue about differences between north and south.

As a lawyer, are you familiar with the Supreme Court's 1954 decision in *Brown versus Board of Education*?

A Yes, I am.

Q Very simply, what is it?

A Desegregation decision by the Supreme Court.

Q What did it require?

A Required the integration of schools.

Q Are you aware of when the Memorial Villages were incorporated?

A At that same time, approximately.

Q All right. Let's look at Exhibit 44, please.

Exhibit 44 is in evidence, and it is data from the various municipal websites indicating when they -- when they were incorporated, and they all show incorporations at or about the time of the *Brown* decision, right?

A Yes.

Q Let's look now at Plaintiff's Exhibit 106 with respect to the Memorial Village demographics.

Can you tell us, both from your life experience as well as

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1 from the statistics published by the various cities, what the
2 nature of the -- ethnic nature of the population is in the
3 Memorial Villages?

09:19:54 4 **A** Well, it's predominantly white. I mean, always has been.

09:20:00 5 **Q** As a long-time Memorial resident, do you know whether or not
6 the Memorial Villages have land use restrictions that affect
7 what kind of housing can be built there?

09:20:10 8 **A** They do.

09:20:10 9 **MR. HENRY:** Your Honor, objection. Again, this calls
10 for a legal conclusion. This isn't an expert witness. He's
11 testifying -- they have a historian who will testify later today
12 who might be able to cover some of these topics.

09:20:21 13 **THE COURT:** I'll hear the answer.

09:20:22 14 What's the answer to the question? The answer
15 requires a yes-or-no answer.

09:20:27 16 **BY MR. ABRAMS:**

09:20:27 17 **Q** Are you familiar with the -- the question is: Are you
18 familiar with whether or not there are land use restrictions in
19 the villages relating to residential housing?

09:20:35 20 **A** Yes.

09:20:35 21 **Q** Are you familiar with what it is?

09:20:38 22 **A** I think so, yes.

09:20:39 23 **Q** Would you tell us what it is.

09:20:42 24 **A** Prohibition against multi-family dwellings and apartments is
25 the primary difference.

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Q Let's look now again --

THE COURT: Are these zoning requirements?

THE WITNESS: Zoning?

THE COURT: Yeah. Is that what they are? Are they zoning requirements?

THE WITNESS: No, they're -- they're deed restrictions, and -- I don't think there's any real zoning. It's all --

THE COURT: There's no zoning in the Memorial Villages?

MR. ABRAMS: Well, actually there is, but --

THE WITNESS: There is?

MR. ABRAMS: -- I'm not going to call upon this witness to say that, but for the Court's benefit.

THE COURT: So the restrictions you're talking about are the deed restrictions?

THE WITNESS: I -- that's my impression, Your Honor, yes, that they're deed restrictions, but I -- if there are zoning --

THE COURT: Well, how could deed restrictions be attributable to the district?

MR. ABRAMS: Well, the reality is that there's zoning, and we'll prove that up later.

THE COURT: I can't hear you.

MR. ABRAMS: I'm sorry, Your Honor. The reality is

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there are zoning restrictions, and we'll prove that up later.

THE COURT: Okay. Well, let's move along.

MR. ABRAMS: All right.

BY MR. ABRAMS:

Q With respect to the economic conditions, let's look again, briefly, at Exhibit 107.

Do the economic conditions shown for the students and families on Exhibit 107 square with your experience as far as --

A Yes. Yes, they do.

Q Similarly, let's look, briefly, at Exhibit 105.

Do the racial and ethnic characterizations shown, based upon the data on 105, square with your experience?

A Yes, they do.

Q From your work in the district, are you aware whether there are materially different family resources available to the children in the schools on the north and south side?

A Yes. There are glaring differences.

Q Can you give us any examples?

THE COURT: Didn't we cover this yesterday? I mean, I'm perfectly -- I'm glad to hear him, but I was listening yesterday. Go ahead.

BY MR. ABRAMS:

Q Let's turn now to Exhibit 24, Mr. Shaddix.

A All right.

Q Exhibit 24 is a map of the illustrative districts, and I

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1 want to draw your attention to District No. 1.

09:22:38 2 You indicated you're involved with the Spring Branch Family
3 Development Center. Is that in District 1?

09:22:43 4 **A** Yes, it is.

09:22:44 5 **Q** You indicated you were involved with Hollibrook Elementary.
6 Where is that located?

09:22:48 7 **A** Also in District 1.

09:22:49 8 **Q** Based upon your experiences as you've related them to the
9 Court as a resident and volunteer, can you tell us whether the
10 residents and neighborhoods in proposed District 1, exhibit
11 common economic, ethnic, and cultural characteristics?

09:23:07 12 **A** They do.

09:23:07 13 **Q** All right. Let's turn to topic two now, board and community
14 attitudes towards the Hispanic community.

09:23:13 15 From your work in the district, have you personally
16 observed whether there are different attitudes at the district
17 level regarding how the north and south side schools are
18 treated?

09:23:24 19 **A** Yes, I think there are.

09:23:25 20 **Q** Let's look at Exhibit 46.

09:23:31 21 **MR. ABRAMS:** If you could first focus on the e-mail.

09:23:34 22 **BY MR. ABRAMS:**

09:23:34 23 **Q** It's an e-mail string dated February 1, 2022, from a Nicole
24 Marino. Who's Ms. Marino?

09:23:42 25 **A** She's one of the parents at Northbrook High School who was

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1 very active; continues to be supportive of its athletic programs
2 through its booster club.

09:23:54 3 Q And can you identify generally the recipients of the e-mail
4 before we turn to the subject?

09:24:02 5 A Yeah, I think I know who all of them are. Looks like the
6 current board of trustees who's among that list, the one that
7 was current at the time of the e-mail.

09:24:12 8 Q And then Ms. Hershey was what?

09:24:16 9 A She's the district athletic director.

09:24:21 10 MR. ABRAMS: If you would, Richard, pull back and
11 let's just scroll through it and look at the pictures, and then
12 we'll come back to the e-mail.

09:24:29 13 Next page, please. There are several pages of
14 pictures.

09:24:36 15 Next page, please.

09:24:41 16 And is there another page? Okay.

09:24:43 17 BY MR. ABRAMS:

09:24:44 18 Q All right. Did you personally see these conditions in the
19 photographs?

09:24:48 20 A Yeah. This occurred back when I was still very actively
21 involved with the booster club activity out there. I was
22 actually on the field that day. It was early afternoon before a
23 scheduled softball game.

09:25:04 24 MR. ABRAMS: Let's go back to the first play -- page,
25 Richard, with the e-mail, and blow up the e-mail.

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BY MR. ABRAMS:

Q What was the incident that's described in the e-mail?

A Well, it was basically a act of vandalism. There were crude -- I mean, it spray-painted the field. It included a number of things: Male genital drawing, the "F" word, also indications that it might well have been done by students from Spring Branch -- I mean, Spring Woods High School, which is Northbrook High School's principal rivalry.

Q What -- was the Northbrook community upset by both the incident and the district's reaction?

A Well, yes. They were upset by the incident because we had a team from outside the district coming to play that day. It was a varsity game, and the condition of the field was embarrassing, and that was unfortunate, but I think they were also maybe even more upset about the fact that they were able -- unable to get any help in remedying the situation before game time.

Q The fourth paragraph leads off with the sentence: (As read) Someone tell me how the district cannot help clean this up. If this were Memorial or Stratford, you can bet your butt that someone would have been there ASAP to help and correct this. Instead, our team was blamed, and they left -- and they left out their white paint, but the parent who helped clean it up today said it was not the same one and looked like cheap store spray paint.

Is this one indication of what was a perception of

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1 differential attention from the district to the children and
2 athletes on the north side?

09:27:05 3 **A** Yeah, it is, and based on my experience in the athletic
4 program at Memorial, I agree with this statement.

09:27:15 5 **Q** During the recent campaigns for school board trustee, are
6 you personally aware of instances of hostile and derogatory
7 communications being sent to supporters of my client,
8 Dr. Elizondo, when she was running for election?

09:27:31 9 **A** I am.

09:27:32 10 **MR. HENRY:** Objection to speculation. I think
11 Dr. Elizondo could testify about that when she testifies, but
12 not this witness.

09:27:36 13 **THE COURT:** Is this recollection supported by
14 documents?

09:27:40 15 **MR. ABRAMS:** It is. The next question was going to
16 bring up a document, Your Honor.

09:27:43 17 **THE COURT:** Overruled.

09:27:44 18 **BY MR. ABRAMS:**

09:27:45 19 **Q** Let's direct your attention to Plaintiff's Exhibit 81,
20 please.

09:27:49 21 **MR. ABRAMS:** Can you blow up the text of that, please,
22 Richard?

09:27:52 23 **BY MR. ABRAMS:**

09:27:55 24 **Q** What is this?

09:27:58 25 **A** This is a message that was sent to Kathy Goss.

Mr. Abrams Direct of James Shaddix

Q Who is Ms. Goss?

A At the -- well, she's a parent in the district; at the time I think was one of the curators of the district's art museum; and she was also very active and very much a supporter of the bond issue, and --

Q Was she also --

A -- and she was a supporter of Dr. Elizondo's.

Q Was this sent with any attribution to Ms. Goss, or was this sent anonymously?

A It was sent anonymously, as I recall.

Q And at this time --

THE COURT: I'm not clear. Who sent this to you?

THE WITNESS: I was -- I was sent an e-mail copy of this, Your Honor, by the lady who received it, Ms. Goss.

THE COURT: Okay. And Ms. Goss received it anonymously? Is that your understanding?

THE WITNESS: No. She's the recipient of it, and it was sent to her anonymously.

THE COURT: That's what I said. She received it anonymously. Okay.

THE WITNESS: Sorry. I didn't understand.

THE COURT: All right. Go ahead.

BY MR. ABRAMS:

Q Is this indicative of the sort of animosity that was exhibited toward supporters of Dr. Elizondo during her election?

Mr. Abrams Direct of James Shaddix

09:29:23 1 **A** Yes.

09:29:24 2 **THE COURT:** Well, let me ask another question. How is
3 it apparent, from reading this, that the -- the document refers
4 to Dr. Elizondo? Does it mention her by name?

09:29:42 5 **THE WITNESS:** No, it doesn't.

09:29:44 6 **MR. ABRAMS:** Richard, if you would back out, please,
7 let's look at the date of this.

09:29:49 8 The date of the text initiating this to others is
9 April 28th.

09:29:54 10 **BY MR. ABRAMS:**

09:29:54 11 **Q** What relationship did April 28th bear to the election date
12 in the Elizondo election?

09:30:00 13 **A** It was very, very close.

09:30:03 14 **THE COURT:** Is Dr. Elizondo a graduate of Texas A&M?

09:30:07 15 **MR. ABRAMS:** No, Your Honor, but Ms. Goss is.

09:30:10 16 **THE COURT:** Okay.

09:30:16 17 Was Ms. Goss a supporter of Dr. Elizondo?

09:30:19 18 **MR. ABRAMS:** Yes, Your Honor, she was.

09:30:21 19 **THE COURT:** Okay. Thank you.

09:30:21 20 **MR. ABRAMS:** And she's publicly listed as an endorser
21 of Dr. Elizondo.

09:30:27 22 **THE COURT:** Thank you.

09:30:27 23 **BY MR. ABRAMS:**

09:30:28 24 **Q** Let's turn now to topic three, Mr. Shaddix, the
25 responsiveness of the board to concerns of the Hispanic

Mr. Abrams Direct of James Shaddix

1 community.

09:30:36 2 Have you regularly attended Spring Branch ISD board
3 meetings for years?

09:30:39 4 **A** I have.

09:30:40 5 **Q** Did you attend the recent board meetings when the school
6 board voted to take various cost-cutting actions in response to
7 the school finance situation?

09:30:48 8 **A** I did.

09:30:50 9 **Q** Let's look at Exhibit 139.

09:30:51 10 Were you present when the board voted to close the schools
11 and programs we've earlier discussed as shown on Plaintiff's
12 Exhibit 139?

09:30:59 13 **A** Yes, I was.

09:31:01 14 **Q** And did you observe the majority of these are located in the
15 proposed District 1, right?

09:31:10 16 **A** Yes. Well, let's see. Looks like three of them are.

09:31:15 17 **Q** And the programs at SKY Partnership that were closed
18 involved campuses that were also located within proposed
19 District 1, right?

09:31:24 20 **A** Yes.

09:31:24 21 **Q** Were you personally involved with discussions you had with
22 the district about its decision to close the Panda Path
23 preschool located at the Family Development Center where you're
24 involved?

09:31:37 25 **A** I was.

Mr. Abrams Direct of James Shaddix

09:31:38 1 Q Just remind us: What was the Panda Path pre-K?

09:31:43 2 A Well, it was one of, I believe, five or six pre-Ks that the
3 district has throughout the -- the district. Panda Path is the
4 one that was put at the -- located at the center at the time the
5 center was built. So it had been there for 20-plus years, I
6 guess, and it was the highest performing pre-K in the district,
7 and it was one of the schools that the board chose to close.

09:32:26 8 Q Are you personally aware of the stated reason that district
9 staff gave for closing Panda Path pre-K?

09:32:33 10 A Well, the initial reason was that, unlike the other pre-K
11 centers where the buildings they were located in were owned by
12 the district, Panda Path was a tenant of the nonprofit that
13 owned the service center buildings at the cost of about \$210,000
14 a year in lease payments. When we met with the district,
15 concerned -- very concerned about the closing of Panda Path,
16 Spring Branch Family Development Center offered to assume that
17 lease and eliminate that cost, which basically put Panda Path on
18 a kind of financial neutral status with the others.

09:33:30 19 We were hopeful that that would dissuade them from closing
20 Panda Path, but it did not.

09:33:37 21 Q Did the board ever acknowledge the financial offer that had
22 been made to neutralize the cost of the lease and put Panda Path
23 on the same occupation footing as all the other pre-Ks?

09:33:51 24 A No.

09:33:53 25 Q Are you familiar with the members of the existing board of

Mr. Abrams Direct of James Shaddix

1 trustees?

09:33:59 2 **A** Yes, I am.

09:34:01 3 **Q** Let's look back at Exhibit 24, briefly, please.

09:34:05 4 To your knowledge, do any of the trustees on the school
5 board reside in the proposed District No. 1?

09:34:12 6 **A** Currently, there is one that does who was just recently
7 elected last May, but back then, there were none.

09:34:20 8 **Q** Which one are you referring to? Because I think you may be
9 in error.

09:34:24 10 **A** David Slattery.

09:34:25 11 **Q** Mr. Slattery lives in the Spring Woods zone, doesn't he?

09:34:29 12 **A** Pardon?

09:34:29 13 **Q** Mr. Slattery lives in the Spring --

09:34:30 14 **MR. HENRY:** Just objection to counsel testifying.

09:34:32 15 **A** Yes, he does.

09:34:32 16 **MR. HENRY:** I think --

09:34:32 17 **THE COURT:** I can't hear. Three people are talking.

09:34:34 18 **MR. HENRY:** I'm sorry.

09:34:35 19 **THE COURT:** What was the question?

09:34:36 20 **MR. ABRAMS:** The question was: Does Mr. Slattery, in
21 fact, live in the Spring Woods zone rather in District 1.

09:34:41 22 **THE COURT:** Do you know?

09:34:42 23 **THE WITNESS:** Yes, I do.

09:34:44 24 **THE COURT:** Where does he live?

09:34:45 25 **THE WITNESS:** He does live in that Spring Woods zone.

Mr. Abrams Direct of James Shaddix

BY MR. ABRAMS:

Q So I repeat my question. Do any of the current trustees live in proposed District 1 as outlined on Exhibit 24?

A No.

Q Do any of current trustees have children that either have or will go to the schools located in proposed District 1?

A No.

Q Are you familiar with what an executive session of a school board is?

A I am.

Q The judge has heard what that is, and what is it?

A A nonpublic meeting of the school board.

Q Did you observe the extent to which board discussions about school closures occurred in public and to what extent those discussions occurred outside the view and hearing of the public in executive session?

MR. HENRY: Objection, speculation. He just --

THE COURT: Overruled. Overruled.

You may answer the question.

A I am aware of that.

BY MR. ABRAMS:

Q With regard -- you can't talk about what --

THE COURT: What is the basis of your awareness? How do you know that?

THE WITNESS: I attend the school board meetings and

Mr. Abrams Direct of James Shaddix

any other meetings that would have, but didn't, occur about the budget publicly. I -- I've been -- I've been in -- I guess to every meeting about the budget that was public.

THE COURT: Thank you.

BY MR. ABRAMS:

Q I realize you can't tell us what was talked about in executive session, but with regard to what was discussed in public session, were you present when the board, in public session, specifically discussed the rationale for closing the schools that are in proposed District 1?

A I was because --

Q (Inaudible) such discussion?

THE REPORTER: I'm sorry?

A Pardon?

BY MR. ABRAMS:

Q Was there any such discussion?

A Well, the discussions that took place that were public were discussions that occurred after the decisions had been announced. And so the decisions had been made and in a way very different from the past practice of the district.

During my 20 years, my experience has been that when the district faces a major decision, like a bond election or something as significant as taking 35,000 -- \$35 million out of their budget or closing schools, they would typically put together a large community group of diverse representatives,

Mr. Abrams Direct of James Shaddix

1 professions, faculty, and so on and give them an opportunity to
2 input -- not necessarily promising to do what they wanted, but
3 to at least listen to their ideas. That did not take place
4 here.

09:37:34 5 Q Based upon your life experience as a lawyer, a long-time
6 community resident, volunteer who's been involved in the
7 district, do you have a view one way or the other about whether
8 it would be beneficial to the voters living in proposed
9 District 1 to have a representative in the room and a voice at
10 the table when the school board is debating actions that will
11 impact their families and children, such as closing schools?

09:38:01 12 A I do. I think it would be extremely beneficial and in the
13 best interest of the district long-term.

09:38:09 14 Q Why?

09:38:10 15 A Because if you don't have a seat at the table when big
16 decisions are made, you don't have the benefit of someone who is
17 in the community that is affected by those decisions. That's
18 why I think Exhibit --

09:38:29 19 Q If you put up 24 again, please.

09:38:36 20 A That's why I think Exhibit 24 is a very reasonable
21 representation of the way the single-member districts should be
22 aligned in our -- because every community would have a voice and
23 would have someone representing their interest and their
24 perspective on whatever came before the board.

09:39:00 25 Q Thank you, Mr. Shaddix.

Mr. Henry Cross of James Shaddix

MR. ABRAMS: I'm going to pass the witness.

CROSS-EXAMINATION

BY MR. HENRY:

Q Good morning, Mr. Shaddix.

A Good morning.

Q You testified about a mentorship program that was a partnership between your church and SBISD, correct?

A That's correct.

Q Was the school district supportive of the -- your church's involvement in that program?

A Oh, yeah. It was -- the program was the school district's program, SpringBoard mentoring program, and we -- our church wanted to participate, and so we adopted a school that was available and sought to provide mentors for students that the district identified as in need of mentors.

Q And, again, with the opportunity that you had to resume the booster clubs for Northbrook High School, was the school district supportive of your efforts in doing that as well?

A Some of the school district was. The principal at the school was not.

Q But others in the school district -- it was permitted, correct?

A Oh, yes. I -- I actually spoke directly with the superintendent, who was Duncan Klussmann at that time, and sought his approval to try and restart the booster club.

Mr. Henry Cross of James Shaddix

Q And that approval was granted?

A Yes.

Q You mentioned that you worked on the 2017 bond committee; is that correct?

A I co-chaired that bond committee.

Q Did you then work on a political action committee that campaigned for the bond?

A Well, that's what -- that's what I did, was work on the PAC -- for the PAC.

Q Did you believe that the 2017 bond was in the best interest of the students of the district?

A Overall, but there were some issues that I was not all that pleased about. But it was a big bond, and it was overall critical that it be passed.

Q Was the CTE, or career and technology education center that you talked about earlier, part of that 2017 bond?

A No. That came later.

Q Okay. That came later.

Can you tell me where that career and technology education center is located in relation to the I-10?

A It's going to be located where the current CTE facility called Guthrie Center is located, and I can tell you which sporting fields it's near, but I can't tell you the street address. I'm sorry.

Q Is it north or south of I-10?

Mr. Henry Cross of James Shaddix

A It's north.

Q North of I-10?

A Yeah.

Q Do you know what high school it's closest to or middle school zone?

THE COURT: Why don't you tell us, since you know.

A I don't -- I don't know for sure which one it is.

THE COURT: Where is it?

MS. BLAINE: It's closest to Spring Oaks Middle School.

BY MR. HENRY:

Q Closest to Spring Oaks Middle School. Does that sound right?

A That sounds about right. If it's close to Spring -- yes, that sounds about right.

Q During your testimony, we looked at an e-mail that was related to graffiti -- a graffiti incident on the field. Was any of that graffiti race related?

A I don't believe so.

Q And do -- are you aware that the school district remedied that graffiti upon -- immediately upon receipt of that e-mail?

A No, I'm not aware of that.

Q With regard to the Panda Path program, you testified that the leases -- the lease the district had with the center where that program was located was a \$210,000 a year lease; is that

Mr. Henry Cross of James Shaddix

1 accurate?

09:43:12 2 **A** Yeah. I mean, it's -- there's a few dollars and cents in
3 there, but that's about it.

09:43:18 4 **Q** Are you aware that the cost of staffing that program was
5 roughly a half million dollars in staffing costs for that
6 program --

09:43:25 7 **A** I was told that.

09:43:31 8 **Q** And so when you testified earlier that by eliminating the
9 lease costs associated with being at that center, that wouldn't
10 eliminate those half-million-dollar staffing costs, correct?

09:43:44 11 **A** No, but -- no, but it would put them on a par with staffing
12 costs at other pre-K centers.

09:43:51 13 **Q** Now, Mr. Shaddix, are you a registered voter in
14 Spring Branch ISD?

09:43:56 15 **A** I am.

09:43:57 16 **Q** Have you voted in past SBISD elections?

09:44:00 17 **A** I have.

09:44:01 18 **Q** Did you hear Dr. Klussmann's testimony that partisan
19 politics have become an important player in school district
20 elections both in SBISD and statewide?

09:44:14 21 **A** Yes, I'm aware of -- keenly aware of it.

09:44:17 22 **Q** So would you agree with Dr. Klussmann's statement?

09:44:20 23 **A** That partisan politics is part of school board elections
24 now?

09:44:24 25 **Q** Yes.

Mr. Henry Cross of James Shaddix

09:44:24 1 **A** Yes, absolutely.

09:44:26 2 **Q** Would you agree that the board, as currently constructed,
3 professes to adhere to a conservative Republican ideology?

09:44:34 4 **A** The current board?

09:44:36 5 **Q** Yes.

09:44:38 6 **A** Yes. At a minimum, they're conservative Republican.

09:44:43 7 **Q** And earlier we looked at an e-mail -- I'm sorry, a text
8 message that had a photograph of a letter that was sent to one
9 of Dr. Elizondo's supporters. Do you recall looking at that?

09:44:54 10 **A** The anonymous message to Kathy Goss? Yes.

09:44:59 11 **Q** Yes.

09:45:00 12 Was there anything race related in that letter?

09:45:03 13 **A** No, I don't believe so.

09:45:05 14 **Q** But is it correct that, in that letter, Ms. Goss referred
15 to -- I'm sorry, the anonymous sender of the letter referred to
16 supporters of Dr. Elizondo as communists?

09:45:17 17 **A** Well, I mean -- yes, I am. It was obviously sent by someone
18 who opposed and was against Dr. Elizondo's election.

09:45:30 19 **Q** So you would agree that there was a political tinge to it
20 because it was referring to those supporters as communists?

09:45:40 21 **A** I -- I -- I can't answer that. I don't know what was in the
22 mind of the writer.

09:45:47 23 **Q** Mr. Shaddix, have you participated in any campaigns for
24 candidates in statewide elections in Texas?

09:45:59 25 **A** Yes, I have.

Mr. Henry Cross of James Shaddix

Q What campaigns have you participated in?

MR. ABRAMS: Your Honor, I'm going to object. I have no problem with the answer, but it's irrelevant.

THE COURT: I don't know until I hear the argument later.

Go ahead. Briefly answer the question, please.

A I have worked for Lizzie Fletcher, who is a congresswoman from Houston. I'm currently working for Colin Allred, who's running for Senate. I've also -- did you say only national, or statewide?

BY MR. HENRY:

Q I asked just about state.

A I've campaigned against Governor Abbott, Lieutenant Governor Patrick, and Senator Bettencourt with -- for a long time.

Q So would you agree that your involvement that you just listed is predominantly supportive of Democratic candidates?

A Yes, I would.

Q Were you a supporter of Virginia Elizondo during her 2021 campaign for the school board?

A Yes.

Q Is it correct that you even made a video that was published online encouraging people to vote for Dr. Elizondo?

A I don't recall that, but if I did, I did. I would have been happy to do it.

Q Did you ever have any concerns that you, a person with ties

Mr. Henry Cross of James Shaddix

1 to Democratic campaigns and with Democratic leanings, might have
2 a negative impact on Dr. Elizondo's campaign by publicly
3 supporting her in a heavily Republican area?

09:47:41 4 **A** Did I think my support would be a negative? No.

09:47:45 5 **Q** In that regard.

09:47:47 6 **A** No.

09:47:50 7 **MR. HENRY:** I'll pass the witness.

09:47:51 8 **THE COURT:** Do you have anything else?

09:47:52 9 **MR. ABRAMS:** Nothing further, thank you.

09:47:53 10 **THE COURT:** All right. We'll take -- we'll stand in
11 recess till 10:00 o'clock.

09:47:56 12 Thank you very much, Mr. Shaddix.

09:47:58 13 **THE WITNESS:** Thank you, Your Honor. Sorry I couldn't
14 quite hear you that one time.

09:48:05 15 **THE COURT:** That's all right. The older we get, the
16 softer people speak.

09:48:08 17 **THE WITNESS:** I know, even with artificial help.

09:48:10 18 *(Recess taken from 9:48 a.m. to 10:01 a.m.)*

10:01:06 19 **THE COURT:** All right. Plaintiff may call her next
20 witness.

10:01:13 21 **MR. LLAGOSTERA:** Your Honor, plaintiff calls its first
22 expert witness, Dr. Andres Tijerina.

10:01:14 23 **THE COURT:** Can you speak up? I can't hear you.

10:01:14 24 **MR. LLAGOSTERA:** Yes. Absolutely.

10:01:14 25 **THE COURT:** Come around and be sworn, please.

Mr. Llagostera Direct of Andres Tijerina

Tell me the name of the witness again.

MR. LLAGOSTERA: Is this better, Your Honor?

THE COURT: Barely. What's the name of the witness?

MR. LLAGOSTERA: Dr. Andres Tijerina.

THE COURT: Okay. Thank you.

Please come around, sir, and be sworn.

(Witness sworn.)

THE COURT: Please be seated. And as you heard me say to the other witnesses, pull the microphone towards you so we can hear you.

THE WITNESS: Yes, sir.

THE COURT: You may proceed.

ANDRES TIJERINA, DULY SWORN, TESTIFIED:

DIRECT EXAMINATION

BY MR. LLAGOSTERA:

Q Dr. Tijerina, good afternoon.

A Good afternoon.

Q Would you please briefly introduce yourself to Judge Lake?

A My name is Andres Tijerina. I live in San Antonio, Texas.

Q Did Mr. Abrams retain you as an expert witness in this case on behalf of Dr. Elizondo?

A Yes.

Q For what purpose?

A To provide a historical background for the discrimination in Texas against Latinos, but also in Harris County and,

Mr. Llagostera Direct of Andres Tijerina

ultimately, in Spring Branch that has had an impact on their ability to freely and fully participate in the democratic processes.

Q So before we get into your opinions, Dr. Tijerina, let's briefly talk about your background.

MR. LLAGOSTERA: Richard, can you pull up Plaintiff's 27, please?

BY MR. LLAGOSTERA:

Q Do you recognize this document, Dr. Tijerina?

A Yes. That's my curriculum vitae.

Q Is it current?

A It is generally current. There are a couple of -- couple of items that have not been added in the -- since I submitted that, a -- a distinguished honor that I received last year and, also -- or this year, and, also, another major book publication.

Q I want to direct you to your employment -- or, excuse me, let me start with your education experience at the top. Do you see that?

A Yes.

Q Okay. And it says you graduated with a bachelor's from Texas A&M University?

A That's correct.

Q And then after that, you went to school at Texas Tech University; is that right?

A I received my masters at Texas Tech University.

Mr. Llagostera Direct of Andres Tijerina

10:04:03 1 Q There's a reasonable gap between your graduation from A&M
2 and your masters at Texas Tech. What were you doing in that
3 time period?

10:04:11 4 A That's about a five-year gap that I left academia and was in
5 the military. I was commissioned as an officer and served as a
6 pilot in the United States Air Force.

10:04:30 7 THE COURT: Our time at A&M might have overlapped.
8 Did I know you?

10:04:34 9 THE WITNESS: Really? Oh, no. I --

10:04:36 10 THE COURT: Were you in the Corps?

10:04:38 11 THE WITNESS: Yes, sir. I was commander of the Texas
12 Aggie band.

10:04:41 13 THE COURT: Oh, okay.

10:04:43 14 THE WITNESS: Yourself, sir?

10:04:45 15 THE COURT: Go ahead.

10:04:47 16 No, I don't remember you. I just --

10:04:48 17 THE WITNESS: I have to tell you that general land
18 commission -- former General Land Commissioner Jerry Patterson
19 greeted me the other day in a public meeting, and he said, "By
20 the way, Dr. Tijerina, I resent the way you made me do ten
21 pushups when I was a freshman."

10:05:04 22 THE COURT: Go ahead.

10:05:04 23 THE WITNESS: That happened.

10:05:06 24 BY MR. LLAGOSTERA:

10:05:06 25 Q Dr. Tijerina, you mentioned that you were in the Air Force.

Mr. Llagostera Direct of Andres Tijerina

Did you serve combat experience?

A Yes. I was in combat for 18 months in Vietnam. I flew 100 combat missions, and I received the -- the Distinguished Flying Cross and the Air Medal and other combat decorations.

Q So let me fast-forward to your masters and then your Ph.D. above.

You received your Ph.D. from University of Texas?

A Yes.

Q And what was that Ph.D. in?

A It was in U.S. History.

Q While you were at the University of Texas, did you have a specific focus in U.S. History?

A Yes, I did. I -- I focused under Dr. Joe B. Frantz on Texas history and under Dr. Nettie Lee Benson specifically on Latino history. And in Texas in the 19th Century, Latinos were called "Tejanos," which is a Spanish word for Texan.

So I focused on Latino history of Texas.

Q So you mentioned, Dr. Tijerina, the terms "Latino" and "Tejano," and you might hear me use those two terms today and the term "Mexican American" or "Hispanic." Are you comfortable with me using those -- the term "Latino" to generally describe all of those ethnicities?

A Yes. Latino is -- is used interchangeably also in my report.

THE COURT: Let me ask you a question. We also often

Mr. Llagostera Direct of Andres Tijerina

1 have this come up. Is there a preferred -- do people with a
2 Spanish background prefer Latino or Hispanic, or does it make
3 any difference, and is there a distinction in the meaning
4 between the two terms?

10:06:52 5 **THE WITNESS:** There is a difference, Your Honor.

10:06:55 6 **THE COURT:** Can you tell me what it is?

10:06:56 7 **THE WITNESS:** Yes. It has to do with the way that
8 Latinos were treated in the different time periods. Before the
9 1950s, they were typically called Mexicans and with other
10 epithets, like Greaser and Spic, et cetera. But by the 1950s,
11 Anglo-Americans began to use the term "Latin American" to those
12 Latinos or Hispanics that they favored, and so that became a
13 preferred term, and it actually was something that was
14 beneficial to Latinos, to call themselves Latin Americans.

10:07:33 15 In the 1960s, they became aware of themselves and
16 developed their own identity and called themselves Chicanos, and
17 then, lately, the U.S. Census, as was pointed out just now, has
18 begun to use the terms "Hispanic" and "Latino" formally as part
19 of the government nomenclature to refer to all of these Hispanic
20 groups.

10:07:58 21 And so the term "Latino" and "Hispanic" are literally
22 legal terms promulgated by the U.S. Census.

10:08:05 23 **THE COURT:** Is there any preference among the
24 Latino/Hispanic community as to which is the appropriate term?

10:08:15 25 **THE WITNESS:** Yes, Your Honor, and it primarily deals

Mr. Llagostera Direct of Andres Tijerina

1 with the time period in which they began to become aware. Those
2 that became aware of their cultural differences in the 1950s
3 probably would call themselves Latin Americans or Mexican
4 Americans, while those who became politically aware as college
5 students in the 1960s probably would prefer to call themselves
6 Chicanos, or today even the term Latinx.

10:08:46 7 **THE COURT:** Okay. Thank you.

10:08:49 8 **BY MR. LLAGOSTERA:**

10:08:49 9 **Q** Dr. Tijerina, I want to turn to your list of publications on
10 this first page of your CV.

10:08:56 11 **MR. LLAGOSTERA:** Can you actually back that out,
12 Richard? Thank you.

10:09:00 13 **BY MR. LLAGOSTERA:**

10:09:00 14 **Q** So in the middle here you have publications listed as author
15 and publications listed as coauthor. Do you see that?

10:09:06 16 **A** Yes.

10:09:08 17 **Q** What is the general focus -- has been the general focus of
18 your works of authorship throughout your career?

10:09:17 19 **A** Latinos in Texas with a big focus on -- although -- although
20 my publications are as much in United States history and broad
21 Texas history, my specific focus has been on Latinos, and many
22 of them in the mid- -- early to mid-19th century Texas.

10:09:41 23 **Q** These -- these works, Dr. Tijerina, are they peer reviewed?

10:09:47 24 **A** All of my works that you see there are scholarly, and they
25 are distinguished by having been peer reviewed; published by

Mr. Llagostera Direct of Andres Tijerina

1 scholarly university presses, most of them. Some of them are
2 more commercial magazines, but most of them are scholarly
3 journals and university presses.

10:10:10 4 **MR. LLAGOSTERA:** Richard, would you turn to page 3,
5 please?

10:10:15 6 **BY MR. LLAGOSTERA:**

10:10:15 7 **Q** Now, Dr. Tijerina, I'm pointing here to your list of honors
8 and awards, and there's several there, and I don't want you to
9 go through them. But could you please mention some of the ones
10 that are most notable or most important to you in your life?

10:10:29 11 **A** Well, I'm a member of the Texas State Historical
12 Association, have been for many decades, and I was honored to be
13 inducted as a fellow. I was a member of the American Historical
14 Association and served on national committees for the national
15 association and, also, appointed and given an award, the Equity
16 Award; member of the Texas Institute of Letters, which is
17 authors of Texas who have received the Pulitzer Prize or
18 National Book prizes, and I was honored that they elected me as
19 their president for a couple of years.

10:11:10 20 Of the award, though, up there that is -- is not too
21 prominent is I delivered the 1994 Texas Aggie Muster address to
22 a -- an audience on the campus, the campus Muster, and, also, to
23 a live satellite feed to Aggie Musters around the world.
24 It's -- it was a very humbling experience to be asked to be
25 listed among the other previous speakers, generals, and

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1 statesmen, dignitaries. But it was -- it was -- it was -- it
2 was the greatest honor of my life, personally.

10:11:58 3 Q Dr. Tijerina, have you ever served as an expert witness?

10:12:01 4 A Yes, I have.

10:12:02 5 Q And that includes on Latino voting rights in Texas?

10:12:06 6 A Yes.

10:12:08 7 Q How many cases would you say you've been an expert witness
8 in?

10:12:14 9 A At least 12, maybe -- maybe 13 or 14 cases where I have
10 submitted a formal report at the national level and the state
11 level, and also in -- testified.

10:12:31 12 Q Thank you, Dr. Tijerina.

10:12:33 13 MR. LLAGOSTERA: Your Honor, we offer Dr. Andres
14 Tijerina as an expert on Latino history in Texas, including the
15 voting rights of Latinos in Texas.

10:12:40 16 THE COURT: All right. He may testify as such, but
17 I'm primarily concerned with narrowing it to the recent time in
18 this area.

10:12:49 19 MR. LLAGOSTERA: So we worked hard, Your Honor --
20 there's a lot of history in his expert report, obviously. It's
21 voluminous, but we've worked hard to get his testimony within an
22 hour.

10:12:57 23 THE COURT: That's fine, but I --

10:12:59 24 MR. LLAGOSTERA: So we --

10:12:59 25 THE COURT: It's very interesting, but I want you to

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focus on how it relates to the Senate factors in this case.

MR. LLAGOSTERA: Sure. May I mention the Senate factors that Dr. Tijerina is going to be discussing?

THE COURT: Yes. That would be very helpful.

MR. LLAGOSTERA: So the first one is Senate factor No. 1, and it is the history of discrimination affecting the right of the Hispanics' ability to participate in the democratic process. So part one of his testimony is going to be as expeditiously as possible. I know there's a lot of history, but setting that stage for that history of the discrimination.

THE COURT: All right.

MR. LLAGOSTERA: Senate factor five is how the Hispanic minority group in -- we're focusing on Spring Branch ISD today -- has borne the legacy of that past discrimination in education, employment, et cetera, that impacts their participation in the democratic process.

THE COURT: Okay. And just so I'll remember it, Mr. Abrams mentioned yesterday that there was a case that emphasized the importance of two of the factors. I don't remember the name of the case. Could you provide me a highlighted copy and give a copy to opposing counsel?

MR. ABRAMS: We will, yes.

THE COURT: Tomorrow morning will be fine.

MR. ABRAMS: Sure.

THE COURT: Go ahead.

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MR. LLAGOSTERA: Thank you.

Your Honor, may I approach the witness to hand him his expert report?

THE COURT: Sure. Sure.

MR. LLAGOSTERA: I also have a copy, if you would like a paper copy.

THE COURT: Thank you.

(Document handed to the Court.)

BY MR. LLAGOSTERA:

Q Dr. Tijerina, I've just handed you Plaintiff's Exhibit 5. Is this the expert report you -- you prepared at the request of Mr. Abrams?

A Yes.

Q And I'd like you to turn briefly to page 44. It's at the end of the -- it is the end of your report, and it's entitled "Bibliography." Let me know when you're there.

A I'm there.

MR. LLAGOSTERA: Could you pull that up, too, Richard?

A I'm on page 44 now.

BY MR. LLAGOSTERA:

Q Okay. So this is the start of your bibliography, and it runs for several pages.

Are these the list of -- is this a listing of the sources that you considered to arrive at your expert conclusions in this case?

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10:15:08 1 A Yes.

10:15:08 2 Q Okay. And very briefly, this list of sources includes
3 documents regarding Texas history in general; is that right?

10:15:19 4 A Those documents are the documents that I used to -- to
5 review the history of Texas, but also Harris County, and also
6 Spring Branch.

10:15:31 7 Q So in this listing, are there several sources about Harris
8 County and Spring Branch ISD in particular?

10:15:38 9 A Yes. There are at least -- there are around 20 of them that
10 are specifically related to Spring Branch.

10:15:48 11 Q Okay. Now, Texas history obviously runs a long time,
12 Dr. Tijerina, but does this include more recent documents,
13 periodicals about Spring Branch ISD as well?

10:16:00 14 A Yes. Yes.

10:16:04 15 Q Okay. So there's several sources, as I said.

10:16:06 16 How did you use these sources to arrive at your ultimate
17 conclusions?

10:16:16 18 A I gathered -- I gathered information, notes, data, by
19 reading, perusing these documents and using my professional
20 scholarly methods to compile the data, the information; then to
21 arrange it chronologically and topically so that I could analyze
22 it and draw conclusions; and, ultimately, writing a narrative to
23 explain it to the reader.

10:16:56 24 Q Okay. So let's start with your ultimate conclusions, and
25 then we'll drill down a little bit on the detailed findings. I

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1 want to point your attention to paragraph 6 of your report to
2 start.

10:17:07 3 **MR. ABRAMS:** Will you pull that up? It's on page 3, I
4 believe, Richard.

10:17:14 5 **BY MR. LLAGOSTERA:**

10:17:15 6 **Q** Do you see -- let me know when you get to paragraph 6,
7 Dr. Tijerina.

10:17:25 8 **A** It's at the beginning -- yes, I'm there now. It's at the
9 bottom of page 3.

10:17:29 10 **Q** Okay. A few minutes ago, Judge Lake asked me about the
11 Senate factors, and the first one was the history of
12 discrimination factor.

10:17:35 13 Does this paragraph 6 summarize your overall findings on
14 the history of Latino discrimination in Texas?

10:17:42 15 **A** Yes.

10:17:44 16 **Q** And what was -- what is the summary of your findings?

10:17:48 17 **A** Well, the summary of my findings is that the discrimination
18 against Latinos in Texas has been a pervasive and a constant
19 phenomenon since -- since 1836 when Anglo-Americans took control
20 of the Texas government and -- and the economy, ultimately
21 marginalizing the Tejanos, the Latinos from the government and
22 from the economy.

10:18:21 23 **Q** And how have Anglo-Americans -- you said "pervasive."

10:18:26 24 How have Anglo-Americans discriminated against Latinos
25 throughout history?

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10:18:35 1 **A** They have used the government and their knowledge of the
2 law, the use of the language -- exclusive use of the language as
3 an advantage to appropriate Tejano lands, to exploit Tejano
4 labor, Latino labor, and to appropriate their culture to their
5 advantage.

10:19:05 6 **Q** In paragraph 6, you mention something called subtractive
7 schooling. It's toward the end of --

10:19:11 8 **MR. LLAGOSTERA:** It's on the next page, Richard, if
9 you can turn it. It's in the last few sentences.

10:19:15 10 **BY MR. LLAGOSTERA:**

10:19:15 11 **Q** Can you explain what subtractive schooling is?

10:19:20 12 **A** Yes. Subtractive schooling is one of the most important
13 ways that Anglo-Americans have been able to perpetuate their
14 discrimination, their -- their domination of Latinos, their
15 exploitation and appropriation of their lands and, ultimately,
16 their ability to participate in politics.

10:19:47 17 The subtractive schooling is a philosophy of teaching.
18 It's a policy of the state, a practice that is generally
19 intended to reduce a class of students culturally to so-called
20 Americanize them as a prerequisite to education. It -- it had
21 its beginning in the -- in the 1880s when Native Americans
22 were -- were brought into schools like the Carlisle School that
23 were government -- run by the government or by religious
24 organizations to literally reduce and strip them of their
25 Native American culture, language, tribal connections and bonds.

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As they said at that time, "Kill the Indian and save the man." Well, Texas subtractive schooling has been used since the 1890s, 1920s; has been used in Texas and Houston to divest the Latino student of their, as they said, all things Mexican, their language, et cetera. It has left the Latino students and Latinos in general vulnerable to political devices specifically designed to disenfranchise citizens of their ability to participate in voting, elections, et cetera.

Q All right. So let's go to paragraph 7. We briefly discussed this one. Again, I -- I was discussing with Judge Lake the Senate factors, and Senate factor five was about the Hispanic minority group bearing the effects of -- of past discrimination.

This paragraph 7, Dr. Tijerina, does it summarize your overall findings about not only discrimination against Latinos in Houston, but also specifically in Spring Branch ISD?

A Yes.

Q And what is the summary of your findings?

A Well, the summary is that -- is that Latinos in Houston and Harris County and even in Spring Branch have experienced many of the same violations of civil rights that I mentioned previously that -- in Texas in general that have had that same effect.

Q So you mentioned your summary findings on the history of Latino discrimination and just now about discrimination in Spring Branch ISD. What is your opinion on the relationship

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between those two findings as to Spring Branch ISD?

A Oh, as to Spring? Well, Spring Branch is a microcosm of the discriminatory experiences not only in Texas, but throughout Harris County, of many of those same discriminatory practices, policies that have led to the denial of Latinos to be able to practice freely and equitably in the democratic processes.

Q Okay. So let's break these opinions down now, the paragraph 6 and 7 with the summary of your findings, and I want to start with your comments about segregation in Texas and, specifically, in housing and education first.

Can you give the Court some historical context on how Latinos have been segregated from Anglo-Americans throughout Texas history?

A Well, Latinos have been segregated at all levels of American life in Texas from -- from Anglo-American -- the Anglo-American population literally at the state level, but at the county level, at the city level. Texas has the distinction of -- of literally establishing what they called Mexican towns. Land developers, agricultural corporations, growers would literally develop a town made up of exclusively their Latino laborers and keep it separate, five or 10 miles, from their Anglo-American employees, the supervisors, generally, so that there would be a Mexican town just a few miles away from the Anglo town with the express purpose of controlling the Latino labor.

And so these twin towns exist all across Texas. Calallen

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1 being the Anglo town; Robstown being the Latino cotton picker
2 town. But it's all the way across Texas. Asherton, Kingsville,
3 Crystal City, McAllen and -- and Edinburg, all of these are twin
4 cities that were specifically developed to control the Latino
5 labor. That's one way that whole towns were -- but within a
6 city, within a town, segregation was usually done by creating a
7 Latino part of town called the "barrio," the bar-yo, separated
8 by a railroad track or a creek or something, a draw or a bayou,
9 and, again, specifically to control the labor because that's --
10 was all happening around the 1890s to 1920 period when Texas was
11 developing its cities.

10:26:08 12 And so almost every Texas city has that characteristic of
13 being divided between the -- the Latino exclusive enclave, the
14 "barrio," from the Anglo-American part of town.

10:26:24 15 The schools themselves have been segregated so that every
16 town had what they called the so-called Mexican school, a
17 dilapidated usually one-room building that had all 12 grades of
18 Latinos, the very few Latinos who were allowed to attend. So
19 every town had a Mexican school. Texas didn't develop this --
20 this pattern, like I say, at all levels. In almost every town
21 it is the pattern of Latino segregation in Texas.

10:26:56 22 Q The "barrios" that you mentioned, Dr. Tijerina, what were
23 the conditions like in the barrios as compared to where
24 Anglo-Americans lived in cities?

10:27:06 25 A Well, the conditions were -- were deplorable. They've been

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1 described in government studies, in scholarly studies as being
2 medieval, even in the 1920s, 1930s, because the barrio was
3 structured. It was designed by the city council, it was
4 designed by the zoning -- city zoning ordinances -- explicitly
5 by ordinance to be separate, to be on the other side of a major
6 barrier.

10:27:42 7 It was -- they -- the traditional barrio in Texas was
8 denied and did not have the standard utilities: Gas,
9 electricity, running water, storm sewers, telephone. The lots
10 were -- were zoned smaller, taxes were lower, and then they
11 had -- they had gatekeepers, like real estate agents, bankers,
12 insurance that would redline the barrio. So there were -- there
13 were forces that drove Latinos into the barrio, and all of this
14 led to overcrowding.

10:28:19 15 It led to flooding -- frequent flooding because there were
16 no storm sewers. It led to poor sanitation. In some -- in some
17 cities, like Austin, Texas, Latinos were required to live in the
18 county sanitation dump. So conditions led to health, poor
19 hygiene, a lot of social problems, a high crime rate, and -- and
20 very strict, harsh law enforcement.

10:28:58 21 **Q** Okay. So let's move to Houston now.

10:29:03 22 You discussed segregated schools and barrios. Has that
23 occurred in our city here?

10:29:11 24 **A** Houston experienced all of these. Houston followed all of
25 these patterns ever since way back in the -- in the 1830s,

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1 1840s. Houston used segregation to segregate, to control the
2 Latino labor.

10:29:32 3 So Houston had the segregation. Houston had its barrios.
4 It had its -- oh, the --I think they call it the Second Ward. I
5 know one barrio I've heard called Magnolia, and it had all of
6 these characteristics. It had the -- all of the deplorable
7 statistics. It had all of the lack of city services and the
8 segregated schools, yes.

10:29:58 9 I believe the first Mexican school in Houston was called
10 the Rusk Elementary, but then, as the Latino population grew,
11 they built other elementary schools and other schools, but
12 always segregated. So Houston has been segregated.

10:30:16 13 Q All right. Let's -- well, first, let me ask you,
14 Dr. Tijerina: You talked historically about segregation in
15 Houston. Do we see remnants of that segregation in education
16 and housing even today in our city?

10:30:30 17 A The segregation of the barrio is visibly present today in
18 Houston, and I must say I don't think I've seen any more stark
19 segregation and statistics than Spring Branch.

10:30:50 20 Q Okay. So let's talk about Spring Branch.

10:30:52 21 When Spring Branch -- when Spring Branch was formed, excuse
22 me, what was the ethnic makeup of that community?

10:31:02 23 A The initial forming, the formation, the founding of
24 Spring Branch was back in the mid-19th century when, on the
25 western part of Houston, it was settled primarily by

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Anglo-Americans, and -- because Texas was largely settled by Anglo-American immigrants in the mid-1800s pouring in, in large numbers; so was Houston and Spring Branch and, largely, by Southern slave owners.

And so particularly the eastern part of Texas, and certainly Houston and certainly Spring Branch, were slave-owning Anglo-Americans. Later in the 1850s, other European immigrants, white immigrants moved into Spring Branch, German and others. But, generally, it was a white enclave.

Q At the time of its formation, was it considered an affluent community?

A It was not at the very time -- very formation necessarily affluent. It was white, and usually the slave owners in a southern society like Texas and Houston were more affluent. And Spring Branch, of course, was not only those slave-owning whites, but it is very beautiful physically -- physically beautiful part of Texas and part of Houston. It has the bayou; it has large trees; a lot of greenery.

It is -- it is -- ever since the beginning, it's been considered.

Q Okay. So what happened to change the predominantly Anglo makeup of Spring Branch?

A Well, that, of course, we've heard referred to by other testimony that what happened specifically was the 1980s, 1990s, as a result of a downturn in the economy in Texas, specifically

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in -- hitting Houston because it was a petroleum downturn, but also housing and the economy, created a lot of vacancies north of Interstate 30 -- Interstate 10 in Spring Branch.

And that was accompanied by a -- a spectacularly large influx, almost a precipitous influx of Latinos, Mexican immigrants into Spring Branch almost exclusively north of the interstate. And so that then created a rapid stark contrast between the more traditional affluent Anglo-American settlements south of the interstate as contrasted with the primarily Latino low-income residents north of the interstate.

THE COURT: Let me ask you a question there. Are -- is it your opinion that this influx you described was the result of discrimination against Latinos, or was it due to economic factors?

THE WITNESS: It was both, Your Honor.

THE COURT: Can you tell me how discrimination resulted in the vacancies in the influx?

THE WITNESS: In the traditional layout of a city, the north part of Spring Branch had apartments. The south part of Spring Branch had been zoned and had the structure of large lots that specifically were large homes that had certain characteristics that Latinos simply could not move into. And as I've explained, this was by design in order to discourage Latinos moving in while, on the other hand, north of the interstate there was this traditional -- the characteristics of

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the apartments, the smaller lots that Latinos could afford.

Now, to Latinos it was actually advantageous. They -- they were able to have higher wages than they'd had before, but at the same time, these were overcrowded apartments. And so it was the traditional separation by the zoning and the different characteristics -- the larger lots, larger homes -- as opposed to the smaller lots and the more concentrated housing primarily in large apartment complexes that were vacant.

So as a result of the economy, they were vacant, and so it was both, Your Honor.

THE COURT: Thank you.

BY MR. LLAGOSTERA:

Q Dr. Tijerina, I want to touch on something that you just mentioned that was discussed earlier today about zoning.

Is it your understanding that the land use restrictions in Spring Branch were by zoning ordinance?

A Yes.

Q Okay. Have you ever heard of the term -- you just talked to Judge Lake about the differences in housing between the north and the south.

Have you heard of the term "Pitner Pits"?

A Yes.

Q What is your understanding of that?

A I read it in a couple of the documents that I cited, and I think it was best described by one of my interview respondents,

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1 a gentleman named Barnes, who explained that it was -- it was a
2 neighborhood north of the interstate on Pitner Road. I saw
3 Pitner Road. I had seen references to it, and I saw it on the
4 map, but he explained that the way the police -- he said the
5 cops called it Pitner Pits because of their connotation.

10:38:05 6 Pitner Pits was the -- it was a low income, undesirable
7 area that was deplorable. It implied it was the dregs of
8 society. It implied it was the bottom of the barrel. So the
9 term "Pitner Pits," then, was a very derogatory term
10 specifically returning to the -- referring to the Latino
11 demography.

10:38:33 12 **Q** Dr. Tijerina, I said earlier that we would talk about
13 housing and education here, so I want to shift briefly to
14 education.

10:38:39 15 In your -- your -- your analysis and consideration of the
16 reports, what did you find about the differences between the
17 schools in the north side of Spring Branch versus the south
18 side?

10:38:57 19 **A** I found that the schools were probably one of the -- one of
20 the greatest contrasts between the south side of the interstate
21 and the north side of the interstate. The -- the south side --

10:39:12 22 **THE COURT:** There's an objection.

10:39:14 23 **MR. CRAWFORD:** I'm going to object at this point.
24 Dr. Tijerina did not express this opinion in his report, and,
25 therefore, I believe it's an improper supplementation of his

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opinion and his report.

MR. LLAGOSTERA: I disagree with that, and I have the page numbers where I can show Your Honor where this is in his report.

THE COURT: All right. Refer me to the pages, please.

MR. LLAGOSTERA: First, on page 31.

His section on Spring Branch starts on page 30, Your Honor, and it continues into 31. And he discusses the differences between the north and the south schools from page 31, and then on 34 and 36, as well.

I'm sorry, 34 through 36.

THE COURT: All right. Go ahead.

BY MR. LLAGOSTERA:

Q So, Dr. Tijerina, I just asked you: In your findings, what did you observe in the differences in the schools between the north side of I-10 and the south side?

A That the south side schools had the best characteristics, some of the highest in Texas, and they boasted. The villages south of the interstate boasted not only the quality of the schools; the grade -- the high percentage of students going on to college; the high achievements, and, especially on the Texas standardized testing; the quality of the physical plant of the schools.

But another characteristic that is highly noticeable is the -- is the -- is the demographic statistics and the

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characteristics of the students themselves, which were primarily very large percentage white and upper income, while the ones north of the interstate were almost the opposite in almost all of those characteristics. The schools were -- the physical plant of the schools; the population; the teacher-student ratio were always much lower; the achievement; the dropout rate; the achievement rates were much lower; the number of students going on to college; the number of students who were dis- -- economically disadvantaged; and all of these were the stark contrast between the north and the south.

Q What about in disciplinary action?

MR. CRAWFORD: Again, Your Honor, I'm going to object. I don't believe this is in his report.

THE COURT: Show me where that's referred to, please.

MR. LLAGOSTERA: May I approach?

THE COURT: No, just tell me the page.

MR. LLAGOSTERA: It's the bottom of page 36, last paragraph --

THE COURT: Just a minute. Let me find it.

MR. LLAGOSTERA: Sure.

THE REPORTER: Can you repeat that?

MR. LLAGOSTERA: Yes. The bottom of page 36, first paragraph -- the last paragraph on page 36.

The contrast in schools was the differential discipline index, and he gives his opinion on the differences in

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disciplinary action as -- between the north and the south.

THE COURT: All right. I'm going to overrule.

BY MR. LLAGOSTERA:

Q Dr. Tijerina, I think you had answered the question, and we can move on. If there's nothing else you would like to say on that topic, we can go to the next question.

A No.

Q In your review of sources reported in Spring Branch, Dr. Tijerina, what did you find was reported about the view by Anglo-Americans of the influx of Latinos into their community in the '80s?

A I saw many references. I read many cases in which there was generally a negative reaction by the Anglo-American, the -- the parents south of the interstate, to the influx of Latinos north of the interstate.

Q Are you aware of a person named Dwayne Bohac?

A I read the name Dwayne Bohac, in a couple of the documents that I encountered, as a state representative, a person who had been involved -- had a career of involvement in politics, and I read of him as a state representative.

Q Did Mr. Bohac have any response to the Latino influx into Spring Branch?

A The -- the comments that I read by Representative Bohac had the impression that he was articulating the -- the expressions that I read in the comments by parents of -- of the south side

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1 of the interstate, and he not only articulated them, but he --
2 he put them into his public statements and into his proposals
3 for legislation and his public comments about the Latinos.

10:45:31 4 Q Following the influx of Latinos into Spring Branch,
5 Dr. Tijerina, did Anglo-American parents organize in any way?

10:45:48 6 A One thing that I did see consistently was a lot of the -- a
7 lot of the parents, the Anglo-American parents primarily, that
8 made statements before the school board or public statements in
9 the media in which they were quite explicit, using racial terms,
10 epithets, about their opposition to the influx of Latinos or
11 even the possibility that Latinos might be -- might be
12 integrated.

10:46:25 13 They had -- they were pretty explicit in -- in their terms,
14 in their expressions, some of them holding up signs -- public
15 signs that they put on -- posted on trees, or they had their
16 children hold up signs that were quite critical of the Latino
17 population or what the school board might do to serve the Latino
18 population. They did organize. They actually had names of
19 their organizations.

10:46:53 20 I can't remember the names, something like Pine Valley
21 Parents or something like that. Another one --

10:46:57 22 Q Is it Pine Shadows Concerned Citizens?

10:47:00 23 A Pine Shadows Concerned Citizens and others referring to
24 funding -- fair funding organization.

10:47:07 25 Q All right. So let's move to the last part of your

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testimony, Dr. Tijerina, and let's talk about the voting aspect of this.

THE COURT: Talk about the what?

MR. LLAGOSTERA: The voting in Spring Branch.

THE COURT: All right.

BY MR. LLAGOSTERA:

Q Okay. And I want to refer back to some of the things that you mentioned earlier when I asked you how Anglo-Americans have discriminated against Latinos to suppress Latino voting.

Can you mention some of the notable, effective devices throughout history that have been used against Latinos?

A Well, in general, the notable practices that have been used against Latinos are things like at-large elections, multi-member district -- voting districts; the placement of the polling locations, either fewer or more difficult to reach for Latinos; and the lack of English -- or, rather, the use of English-only ballots; a lack of literature that may encourage Latinos to participate in elections.

Q What about (inaudible)?

THE REPORTER: I'm sorry. What about...?

MR. LLAGOSTERA: What about slating?

MR. CRAWFORD: Your Honor, again, I'm going to object that this exceeds the scope of his original report.

THE COURT: I couldn't hear your question.

MR. LLAGOSTERA: I asked him about slating.

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THE COURT: Overruled.

A Yes. I refer to, in my report, the fact that, in general, across Texas it was -- it was typical for cities to have --

THE COURT: Was there any evidence of slating in Spring Branch?

THE WITNESS: I was told, in one of my interviews by one of the respondents who evidently ran for -- for the Spring Branch ISD board, that there was slating; that the school board members would publicly announce -- active school board members would, in their public literature, announce their public candidates. The Harris County Democratic Party issued a public slate for the Spring Branch ISD board, and I believe that even in the case of Elizondo there was some indication of slating.

And the thing that I found most egregious was the fact that active school board members actually participated in the -- in the slating process.

BY MR. LLAGOSTERA:

Q Dr. Tijerina, we got a little lost, probably because of the poor question from me, and I asked you earlier: You just discussed the at-large system, polling locations, multi-member district, slating.

My original question is in -- and I'm focusing on Senate factor one, the history of discrimination. Can you briefly describe, in Texas history, various devices that have been used to suppress the Latino vote? Not the ones you just mentioned,

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1 but --

10:50:39 2 **THE COURT:** You already talked about that -- at-large
3 districts, other factors -- didn't he?

10:50:43 4 **MR. LLAGOSTERA:** These are -- these are the more
5 recent devices that have been used in current times --

10:50:47 6 **THE COURT:** All right.

10:50:48 7 **MR. LLAGOSTERA:** -- and my original question was,
8 historically, I wanted him to briefly describe -- not all these
9 are used today, Your Honor.

10:50:53 10 **THE COURT:** Reframe your question, and let's move
11 along.

10:50:55 12 **MR. LLAGOSTERA:** Sure.

10:50:56 13 **BY MR. LLAGOSTERA:**

10:50:56 14 **Q** Very briefly, Dr. Tijerina: Over the course of Texas
15 history, have there been other devices, before the ones that you
16 mentioned, that have been used to suppress the Latino vote?

10:51:04 17 **A** Well, Texas -- Texas is characterized by those -- those very
18 egregious practices like the -- Texas had the largest
19 political -- some of the most powerful political bosses,
20 political machines -- in almost every major city in Texas -- had
21 political machines, political bosses that would literally
22 control the Latino vote by giving them favors or by protecting
23 them from violence.

10:51:35 24 Slating, of course, was one of the things that was used,
25 but in Texas they used -- Texas passed the 1903 toll election

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1 law for the poll tax, which was specifically targeted at the
2 Latino and the lower-income voters. The white man's primary was
3 very specifically targeted, and they were very explicit in
4 saying they wanted to kill the Mexican vote by requiring that a
5 voter in the primary say, "I am a Democrat, and I am a white
6 man."

10:52:04 7 And in Texas intimidation, violence, targeted
8 assassinations of Latino political leaders not only by the
9 public, but even by Texas Rangers was something that really
10 characterized Texas as different from other states.

10:52:25 11 Q Okay. So we're wrapping up here, Dr. Tijerina.

10:52:28 12 You -- you mentioned, earlier, at-large systems,
13 multi-member district elections, polling locations, slating.
14 These -- these devices that you talked about earlier, did you
15 find that they have been used in Spring Branch?

10:52:46 16 A Yes.

10:52:47 17 Q Okay. And what were your findings about the impact of these
18 devices on students in Spring Branch ISD?

10:52:56 19 MR. CRAWFORD: Once again, Your Honor, I'm going to
20 object that this exceeds the scope of his opinion.

10:53:00 21 THE COURT: I'll hear the testimony. I'll evaluate it
22 later.

10:53:03 23 Go ahead.

10:53:03 24 MR. CRAWFORD: Thank you.

10:53:05 25 THE COURT: You may answer the question, Doctor.

Mr. Llagostera Direct of Andres Tijerina

THE WITNESS: Your Honor, I mentioned in my report

that these -- these practices of putting -- the placement of polling places -- actually, the intimidation, even by that state representative that I mentioned, made the students -- the Latino students actually fear, and the result was that there was a marked drop in student attendance by Latinos who expressed that they were afraid, as a result of comments that were made and the public statements by the -- Representative Bohac, that the schools north of the interstate were going to be raided.

They had seen raids, and so they -- the effect was that it was fear. The Latino students and the voters, their parents, it -- there were results and lower voting and -- and, like I say, even student attendance in the schools as a result of the fear.

MR. LLAGOSTERA: Richard, will you please pull up PX138?

BY MR. LLAGOSTERA:

Q Dr. Tijerina, do you recognize this document?

MR. CRAWFORD: Your Honor, at this time I'm going to object. This document was not listed in his bibliography or attached to his report. This is a brand new report, and his report has not been supplemented to include it.

MR. LLAGOSTERA: Your Honor, this published literally two to three weeks ago, maybe a little longer. Maybe a month ago. We disclosed it to opposing counsel and let them know that

Mr. Llagostera Direct of Andres Tijerina

Dr. Tijerina would be using it in connection with his -- as another source in connection with his opinions. We gave them an opportunity to object, and they did not.

MR. CRAWFORD: Your Honor, I agree that they provided it to me on August 15th, and I'll quote from Mr. Abrams' e-mail to me. "Dr. Tijerina may rely on the report as additional evidence supporting the opinions contained in his report." They never supplemented that to say he would or he had, and, therefore, I object.

THE COURT: All right. The objection's overruled. Go ahead.

BY MR. LLAGOSTERA:

Q This is a -- Dr. Tijerina, first of all, do you recognize this document?

A Yes.

Q What is it?

A It's a national report issued by the American Bar Association on the status of Latinos in the United States that breaks down the myriad ways in which Latinos have had to suffer that has resulted in their difficulty in trying to participate equitably and fairly in the democratic processes.

Q Is it your understanding that this was recently published by the American Bar Association?

A I know it was because I've never seen so comprehensive a report; so credible a report; so expansive by such a prestigious

Mr. Llagostera Direct of Andres Tijerina

organization --

Q Doctor -- excuse me.

A -- as this.

MR. LLAGOSTERA: Will you turn to the table of contents, please?

BY MR. LLAGOSTERA:

Q Dr. Tijerina, this is obviously a very voluminous document, and we don't have time to go through it. We're not going to do that.

Can you just answer briefly whether or not what you read in this report was consistent with the findings that you've presented in your expert report and today?

A Yes. I -- I -- the -- the language -- the importance of the English language being denied Latinos through their education processes, as I mentioned the subject -- the subtractive schooling, that results in their inability to register to vote, to read the ballots, to -- to par- -- to know the political issues; language; the labor controls, lack of labor opportunity -- job opportunities, the -- the dual wage systems, the discrimination in employment; the -- the deplorable health statistics that Latinos have had; and then criminal justice, the -- the disparity in convictions, arrests, and sentencing of Latinos, all of these having to do, ultimately, with their ability to participate in -- in voting and elections.

Q Dr. Tijerina, this is my final question for you today.

Mr. Crawford Cross of Andres Tijerina

1 Earlier, when I asked you about the summary of your
2 findings on Spring Branch ISD, you mentioned that Spring Branch
3 is a microcosm of Texas history. Can you explain what you meant
4 by that in the -- in the context of all the findings that you've
5 presented today?

10:58:21 6 **A** Yes. By microcosm, I mean that it manifests not only the
7 specific practices -- discriminatory practices, but the whole
8 system to control their labor, to control and to limit their
9 ability to -- to vote or to participate equitably and fairly
10 in -- in the democratic processes.

10:59:00 11 So my conclusion is that Spring Branch is the result, and
12 my report has been simply to try to enhance the understanding of
13 how this entire past in Texas has come to bear on Spring Branch
14 and most heavily on the Latinos where, in Spring Branch, all of
15 this is implemented at the ground level to deny Latinos their
16 fair and equitable treatment in the democratic processes.

10:59:40 17 **Q** Thank you, Dr. Tijerina.

10:59:41 18 **MR. LLAGOSTERA:** Thank you, Your Honor. No further
19 questions.

10:59:43 20 **THE COURT:** All right. We'll hear from the other
21 side.

CROSS-EXAMINATION

10:59:45 22
10:59:46 23 **BY MR. CRAWFORD:**

11:00:10 24 **Q** Good morning.

11:00:12 25 **A** Good morning, sir.

Mr. Crawford Cross of Andres Tijerina

Q Nice to talk with you again.

Before we start, I want to thank you for your military service. Thank you much.

Dr. Tijerina, you were hired as an expert in August of 2021, correct?

A I haven't seen the letter of agreement recently, but it was about that time, yes.

Q Prior to being hired, you had never worked or lived in the Spring Branch area, correct?

A That is correct.

Q When I took your deposition in February of 2022, you told me that you had not been asked to opine on Spring Branch ISD's elections or how they hold their elections, correct?

A That is correct.

Q However, in your direct exam, you did mention slating. Do you recall that?

A Yes.

Q And that was not part of your original report, was it?

A I did mention slating in my report.

Q You did or did not?

A I did.

Q Okay. Do you know where in your report?

A I know that it was where I was talking about -- there was a gentleman respondent to my interview, Lezama, who told me that. Also, Mr. Barnes told me that.

Mr. Crawford Cross of Andres Tijerina

1 Q Okay. In connection with your discussion on slating, I
2 believe you -- you told counsel that the school board all
3 publicly announced who they were endorsing for the election. Do
4 you recall that?

5 A What I stated was that I had been told by a respondent that
6 a school board member had included his preference for -- in an
7 election in his campaign literature.

8 Q Are you aware that every board member, except for one,
9 endorsed Dr. Elizondo for her candidacy to the board?

10 A I was told that --

11 Q So that's a yes-or-no question. Are you aware of that?

12 A Would you please rephrase the question?

13 Q Sure.

14 Are you aware that every board member but one endorsed
15 Dr. Elizondo for her candidacy to the school board?

16 A No.

17 Q Your opinion solely concerns research on Texas history,
18 Houston, and Spring Branch history, correct?

19 A My report included historical references to Texas, to
20 Harris County, Houston, and Spring Branch.

21 Q You have not been asked to opine on the *Gingles* factors,
22 correct?

23 A No one -- no one used the terms "*Gingles*" or "*Gingles*
24 factors" to me in any of the questions or --

25 **THE COURT:** It's irrelevant. He didn't testify about

Mr. Crawford Cross of Andres Tijerina

1 them, whether he's asked or not. Let's move along.

11:03:55 2 **MR. CRAWFORD:** Yes, Your Honor.

11:03:55 3 **BY MR. CRAWFORD:**

11:03:56 4 **Q** You have only reviewed Spring Branch ISD trustees elections
5 to a very small, to a very light extent, correct, sir?

11:04:09 6 **A** That is a subjective term. I'm sure that from someone --
7 other perspectives it may be small and light. It is not the
8 major part of my report, but to me it was major. It was ded- --
9 I was dedicated to it, and I did spend extensive weeks, months,
10 even years and hours in different archival sources to put
11 together my report, including Spring Branch.

11:04:54 12 **MR. CRAWFORD:** May I approach, Your Honor?

11:05:02 13 **BY MR. CRAWFORD:**

11:05:04 14 **Q** Dr. Tijerina, I have handed you a copy of your deposition
15 transcript taken on February 9th, 2022.

11:05:11 16 Do you remember when I took your deposition in this case?

11:05:14 17 **A** Yes.

11:05:15 18 **Q** I would like to ask you to turn to page 11 of your
19 deposition, and specifically I'm going to begin at line 11.

11:05:27 20 Are you with me, sir?

11:05:31 21 **A** Did you say page 11 or line 11?

11:05:33 22 **Q** Page 11, line 11. Both.

11:05:35 23 **A** Oh, okay. Okay.

11:05:37 24 **Q** And I asked you: (As read) Have you reviewed the trustee
25 election specific to Spring Branch ISD as part of your work?

Mr. Crawford Cross of Andres Tijerina

And you told me you had, correct?

A Yes.

Q And then I asked: (As read) To what extent have you done that?

Would you read your answer, sir?

A (As read) Yes. Very slightly to a very small extent, and that -- I've had to say that a very light, very small extent.

Q Thank you, sir.

As part of your research, you did not talk to any past or current Spring Branch ISD board members, correct?

A That is correct.

Q Rather, you only talked to three people who you did not previously know that were referred you by the plaintiff's counsel, Mr. Abrams, correct?

A In my formal interviews for this report, I formally interviewed three people regarding Spring Branch and the school district.

Q The first person you talked to, to help form your opinion was Ricardo Barnes, correct?

A Ricardo Barnes was the -- one of my respondents.

Q And you only -- you only interviewed him once for about two hours on November 19th, 2021, correct?

A I don't know the -- I can't remember the specific date. I know that I did interview him for about two hours, and it must have been around 2021.

Mr. Crawford Cross of Andres Tijerina

Q And you have no written correspondence with Mr. Barnes, correct?

A I think I may have e-mailed him, which you may qualify as written correspondence. I did not write him any letters, nor did he send me any letters.

Q And other than that one two-hour interview, you never talked with him again, correct?

A I -- I did speak to him probably more than once, but I don't -- I did not conduct any more -- any subsequent interviews -- formal interviews with Mr. Barnes after the one that I cited in the report.

Q Well, would you turn to page 12 of your deposition, sir?

A Yes.

Q Page 12, line 17, I asked you if you -- (As read) Did you ever talk to Mr. Barnes subsequent to the interview?

And what was your answer?

A "No."

Q You didn't do anything to verify what Mr. Barnes told you, correct?

A I did see references in some of the other materials that I was reading that confirmed some of the information that Mr. Barnes told me.

Q Would you turn to page 33 of your deposition, sir.

Page 33, line 23, I asked you: (As read) Did you do anything to verify what Mr. Barnes had told you in your

Mr. Crawford Cross of Andres Tijerina

1 interview?

11:09:13 2 Would you please tell me what your answer was.

11:09:15 3 **A** (As read) I did not do anything specifically to verify what
4 Mr. Barnes told me, no.

11:09:22 5 **Q** Thank you.

11:09:23 6 The second person you talked to was Noel Lezama, correct?

11:09:30 7 **A** I don't know if he was the second person that I spoke to,
8 but I did speak to Mr. Lezama.

11:09:37 9 **Q** Fair enough. And I meant the second out of the three, not
10 necessarily chronological order.

11:09:41 11 But Mr. Lezama is one of the three people you interviewed?

11:09:44 12 **A** Yes.

11:09:45 13 **Q** Very good.

11:09:46 14 And you interviewed him only once for about two hours in
15 November of 2021, correct?

11:09:53 16 **A** I did interview Mr. Lezama in a formal interview about that
17 time.

11:09:59 18 **Q** And it was only about two hours, correct?

11:10:03 19 **A** My interview was about two hours, yes.

11:10:06 20 **Q** And other than text messages to set up the interview, you
21 have no written correspondence with him, correct?

11:10:16 22 **A** I did not write with him in any way in written
23 correspondence.

11:10:21 24 **Q** And other than that one interview, you never talked to him
25 again, correct?

Mr. Crawford Cross of Andres Tijerina

1 A I really can't say. I met a lot of people since I
2 interviewed him, and it is possible that I -- that I did talk to
3 him or meet with him -- meet him even in person, and I simply
4 cannot tell you for sure that I have not met him or talked to
5 him since the interview.

6 Q Okay. If you would turn to page 13 of your deposition, sir,
7 beginning at line 14, I asked you: (As read) Other than the
8 conversation on November 23rd, did you talk to Mr. Lezama either
9 before or after that interview date?

10 And what did you answer?

11 A I'm sorry. I lost -- you were referring to what page
12 number?

13 Q Page 13, line 14.

14 And I asked you whether you had talked to Mr. Lezama either
15 before or after that interview, and what was your answer?

16 Line 17.

17 A On the date that you deposed me, I did answer: (As read) I
18 did not talk to him. I did text him at his phone number, and so
19 it depends on if you call that talking to him. We exchanged
20 texts in order to set up the time for the interview.

21 Q Thank you.

22 Other than Mr. Lezama, you didn't talk to any other former
23 Spring Branch ISD board candidate, correct?

24 A At the time that you deposed me, I did not -- I had not
25 talked to any other candidate for the Spring Branch ISD.

Mr. Crawford Cross of Andres Tijerina

Q The third person you talked to was Victor Alvarez, correct?

A I interviewed Mr. Alvarez.

Q And you interviewed him only once for about an hour and a half on November 29th, 2021, correct?

A That sounds about like the right time.

Q And you have no written correspondence with him, correct?

A I'm sure that I did not write him any written correspondence.

Q And other than the one interview, you never talked to him again, correct?

A Again, I'll say that, because I've spoken to so many people in the last couple of years regarding this case, I -- I think that I have not talked to him, but it is possible that I may have met him, talked to him. I -- but right now, I do not remember having talked to him again since the interview.

Q And you recall, in your deposition, you had told me you had not talked to him again, correct?

A Do you have --

Q Sure.

Page 14, line 14, I asked you: (As read) Did you talk to Mr. Alvarez either before or after that interview date?

And your answer was, "No," correct?

A That is correct. It says, "No," and that's what I answered.

Q At your deposition, you told me that there were not any facts or data that you considered for your opinion that are not

Mr. Crawford Cross of Andres Tijerina

1 listed in the bibliography to your report, correct?

11:14:22 2 **A** Would you please rephrase that?

11:14:24 3 **Q** Sure.

11:14:24 4 You told me at your deposition that there are not any facts
5 or data that you considered for your opinion that are not listed
6 in the bibliography to your report, correct?

11:14:38 7 **A** I'm sure I told you that. That is a true statement.

11:14:43 8 **Q** And as you told me at your deposition, you did not do any
9 research on politics, political motives, or voting, correct?

11:14:55 10 **A** I'm sure I must have told you that. I'm sure we could find
11 it in the deposition notes, and I will say that that is a
12 correct statement.

11:15:03 13 **Q** Sure.

11:15:03 14 In fact, look at your deposition, page 38, and I'm going to
15 refer you to line 9. And I asked you: (As read) Does this mean
16 that politics help explain the differences in their voting?

11:15:23 17 And what was your answer, sir?

11:15:24 18 **A** (As read) I didn't do any research on politics, political
19 motives, or voting.

11:15:29 20 **Q** Thank you.

11:15:32 21 As of your deposition, there was nothing left for you to do
22 for your opinion in this case, and you were fully prepared to
23 render your opinion on that day, correct?

11:15:43 24 **A** Can you please restate that?

11:15:45 25 **Q** Sure.

Mr. Crawford Cross of Andres Tijerina

When I took your deposition, you told me you were fully prepared to render your opinion that day, correct?

A Yes.

Q And there was nothing left for you to do that day for you to be able to render your opinion, correct?

A No.

Q And your opinion is that Texas has a history of hindering Latino rights, including voting, housing, and education, which continues to hinder their ability equitably to participate in these areas, correct?

A I believe that, yes.

Q And you are expressing no other opinion in this case, correct, sir?

A I'd have to know what you mean by "no other opinion."

Q If you would look at pages 15 to 16 of your deposition, sir?

A Fifteen?

Q Yes, sir.

On page 15, line 15, and I asked you: (As read) What is your opinion?

And then you told me what your opinion was, which I believe includes exactly what you just told me. And then I asked you, on line 9 on page 16: (As read) Any other opinion that you're expressing in this case?

And you told me, "No," correct?

A I did say, "No."

Mr. Crawford Cross of Andres Tijerina

1 Q Your opinion and the basis for it is contained in your
2 report, correct?

3 A That is correct.

4 Q And you've only submitted one report in this case. You have
5 not submitted a supplemental report, correct?

6 A That is correct.

7 Q Okay. So let's turn to -- turn to your report, and let's
8 talk about what you said in your report.

9 **THE COURT:** Let's take a break, first. We'll stand in
10 recess until 11:30.

11 **MR. CRAWFORD:** Thank you, Your Honor.

12 *(Recess taken from 11:17 a.m. to 11:31 a.m.)*

13 **THE COURT:** Be seated, please.

14 You may conclude your cross-examination.

15 **MR. CRAWFORD:** Thank you, Your Honor.

16 **BY MR. CRAWFORD:**

17 Q Dr. Tijerina, when we left off, we were turning to your
18 report in this case, and that is Defendants' Exhibit 5. Do you
19 have that in front of you, sir?

20 A Is that in this big notebook?

21 Q No. I think it's the -- that right in front of you.

22 And if it --

23 A My report? You're talking about my report?

24 Q Yes, sir.

25 A Oh, yes. Plaintiff's Exhibit 5, I have it.

Mr. Crawford Cross of Andres Tijerina

Q Plaintiff's Exhibit 5. Correct. Thank you, sir.

I'd first like to turn to page 2 of your report. The beginning of your paragraph No. 3, at the bottom of the page, you say that: (As read) The facts and data I considered to form my conclusions come from the materials in my bibliography.

Did I read that correctly?

A Yes.

Q And is that a correct -- still a correct statement?

A Yes.

Q If you would turn to page 4 of your report, under paragraph No. 7 -- your numbered paragraph 7, the last sentence, you state: (As read) The lucrative economic incentives have attracted a major Latino population to the work sites in Houston and the Spring Branch ISD.

Did I read that correctly?

A Yes.

Q Would you turn to page 18 of your report?

THE REPORTER: I'm sorry. Is there any way you can pull that a little closer?

MR. CRAWFORD: Better?

THE REPORTER: Yes.

THE COURT: Go ahead.

MR. CRAWFORD: I was waiting for the...

A Yeah. I'm -- I'm opening up page 18.

BY MR. CRAWFORD:

Mr. Crawford Cross of Andres Tijerina

Q Okay. Thank you, sir.

I'd like to concentrate on the second full paragraph that begins, "Like Dallas." Do you see that paragraph?

A Yes.

Q Going about -- close to halfway through that paragraph, you state: (As read) The Houston School District established Rusk Elementary School as the single segregated elementary school for Latinos. Rusk was known as the "Mexican School." By the late 1920s and 1930s, new barrios grew up in Houston's Second Ward with the largest barrio, Magnolia, near the Houston Ship Channel.

Did I read that correctly?

A Yes.

Q And then, on page 23 of your report, you continue. In the paragraph that begins, "In the larger cities," the second sentence reads: (As read) In 1900, Rusk Elementary was established as Houston's first Mexican school. Later, Houston school board built Lorenzo de Zavala, Hawthorne, Dow, Elysian Street, Jones, and Lubbock exclusively for Latinos.

Do you see that reference?

A Yes.

Q Now, unlike the Houston schools in the 1900s that you're referencing, you don't know if Spring Branch ISD established schools exclusively for Latinos in the sense that your report is using those examples, correct?

Mr. Crawford Cross of Andres Tijerina

1 A I didn't refer to any, I didn't read about any, and I don't
2 know of any schools that the Spring Branch ISD established in
3 the early 20th century.

4 Q Turning to page 24 of your report, the top paragraph had --
5 beginning with the third sentence, I believe, states that: (As
6 read) The Latino schools had 23 acres of space compared to
7 82 acres for the Anglo school grounds. The Latino schools had
8 48 students per room compared to 23 Anglo students per room.
9 The school funding revealed similar contrast, as the school
10 board spent \$24.50 for each Latino student compared to \$35.96
11 average per Anglo student.

12 Do you see that reference, sir?

13 A Yes.

14 Q Now, that is talking about San Antonio schools, not
15 Spring Branch ISD schools, correct?

16 A That is referring to San Antonio schools.

17 Q And, in fact, you do not know the number of students per
18 class in Spring Branch schools, do you?

19 A I cannot tell you right now the number of students per class
20 in Spring Branch.

21 Q And you don't know the funding for any of those schools in
22 Spring Branch, correct?

23 A I cannot tell you right now the funding for the schools at
24 Spring Branch.

25 Q Okay. Now, I would like you to turn to page 37 of your

Mr. Crawford Cross of Andres Tijerina

report, and this report cites your -- this page of your report cites a report from Stephanie McGrath that provides numbers for Spring Branch elementary schools and expenditures per those students, correct?

A Yes.

Q But this article that you rely on is from 1987, 35 years ago, correct?

A She's referring to 1985-'86, and '86-'87.

Q And you don't have any numbers on the number of elementary school students or expenditures for those students from the year 2020 to the present, do you?

A No.

Q So your report is relying on 35-year-old data, correct?

A In this chart, yes.

Q In this chart.

If you will turn to page 26 of your report, and continuing through page 29, these pages discuss present-day Pasadena as a vivid example of the role that racial prejudice affected labor, housing, and education in Harris County, correct?

A Let me find those pages, and I'll answer your question.

Twenty-six through 29?

Q Yes, sir.

You talk about present-day Pasadena as being a vivid example of the role that racial prejudice affected labor, housing, and education in Harris County.

Mr. Crawford Cross of Andres Tijerina

1 A Yes.

2 Q Now, Pasadena is not part of Spring Branch ISD, is it, sir?

3 A No, it is not.

4 Q Nothing in pages 26 through 29, when you're discussing
5 Pasadena, refers to Spring Branch ISD, does it?

6 A It does not specifically mention Spring Branch ISD.

7 Q Let's turn to page 30 of your report.

8 The second paragraph of page 30 of your report refers to
9 city leaders railing against the ruling of *Brown versus Board of*
10 *Education*. Do you see that reference?

11 A Yes.

12 Q And those city leaders refer to Houston city leaders, not
13 Spring Branch ISD leaders, correct?

14 A That is correct.

15 Q And regarding the statement that southern state and local
16 leaders formally resisted adjustments in the structure of their
17 school districts and education, you admit that you do not have
18 anything that refers to Spring Branch ISD at that time, correct?

19 A If you can clarify your question, please?

20 Q Sure.

21 Let's turn to page 29 of your deposition, sir.

22 A In the deposition.

23 Q Yes, sir.

24 Page 29. I'm going to reask you the question I asked you
25 on -- beginning at line 2. (As read) The next paragraph on this

Mr. Crawford Cross of Andres Tijerina

page, on page 30, begins with the sentence, 'During this transition period from school -- of school integration, many particularly southern state and local leaders formally resisted adjustments in the structure of their school districts and education.' My question is: What, specifically, did Spring Branch ISD do in that regard?

And what was your answer, sir?

A I'm sorry. I think you used the word "deposition" just now for page 29.

Q Yes.

Did you -- did you --

A I've got the deposition.

Q Okay. Yes.

A Okay. And we're looking at the deposition, not at the report.

Q Yes, sir.

A Okay. On page 29 of the deposition --

Q Correct.

A -- and if you can -- on the very first -- the very first question, the next paragraph, is that what you're saying?

Q Yes.

I begin -- I'm beginning at line 2 on page 29, and I read from your report, page 30, and my question was: (As read) What, specifically, did Spring Branch ISD do in that regard?

And what was your answer to me?

Mr. Crawford Cross of Andres Tijerina

1 A In that statement, and in that document -- well, my answer
2 was: (As read) At that time, with regard to *Brown versus Board*
3 *of Education* in 1954, I don't have anything that referred to
4 them at that time.

5 Q Thank you.

6 I'd like to go to page 34 of your report.

7 In the middle of the page of your report refers to your
8 Zoom interview with Ricardo Barnes wherein he said he noticed
9 that the school free lunch program, STEM, tutoring, after-school
10 curriculums, quality sports programs, were not being provided
11 north of the freeway, correct?

12 Did I read that correct?

13 A I'm reading it.

14 He noticed that, yes, that is -- that is correctly worded.

15 Q And -- however, you did not do anything to verify what
16 Mr. Barnes told you, correct?

17 A I did not go back specifically to look for statistics or
18 facts or documentation on his -- on that statement.

19 Q Were you present when Dr. Klussmann testified earlier in the
20 trial?

21 A Was that yesterday?

22 Q Yesterday and beginning of today.

23 A Yes. Yes.

24 Q Do you recall that Dr. Klussmann stated that the free lunch
25 program was a federal program, not a Spring Branch ISD program?

Mr. Crawford Cross of Andres Tijerina

1 A I think I heard him say something like that, yes.

2 Q And, again, you didn't verify anything Mr. Barnes told you
3 about the free lunch school program, correct?

4 A That is correct.

5 Q And, moreover, regarding the services that Mr. Barnes talked
6 to you about, you do not know whether any of these sorts of
7 services and programs are currently being provided north of the
8 freeway, correct?

9 A I have not studied and I do not know any of the facts
10 regarding those particular programs at this current time.

11 Q And continuing on page 34 of your report, the next
12 paragraph, you note: (As read) Similar observations were
13 offered by -- offered by Spring Branch ISD Superintendent Hal
14 Guthrie upon his retirement in 2021.

15 Do you see that?

16 A I'm looking for page 34 now.

17 I see that paragraph, "Similar observations."

18 Q And that came from a newspaper clipping in 2021?

19 A I took that statement from a newspaper clipping.

20 Q And that was over 20 years ago?

21 A That was from an article published in 2001.

22 Q And you have no idea of what Hal Guthrie's observations
23 would be in 2021, 2022, 2023, or 2024, do you?

24 A I do not know anything about Mr. Guthrie's observations in
25 those years.

Mr. Crawford Cross of Andres Tijerina

Q Turning to the next page of your report, page 35, I'm going to refer to the first full paragraph on that page, and this discusses community complaints about the overburden of apartment complexes north of I-10, correct?

A I'm -- I want to make sure that I'm looking at the right -- does it start, "Ironically"?

Q No. This is page 35 --

THE COURT: It starts with, "The rapid."

BY MR. CRAWFORD:

Q The paragraph begins, "The rapid statistical transition."

A I was on the wrong page. "The rapid statistical" -- okay. I have that.

Q And if you'll look at the third sentence of that paragraph, you're talking about, "Residents in nearby neighborhoods were complaining that the community north of I-10 was overburdened with apartment complexes."

Do you see that reference?

A Yes.

Q Now, the time period that this is discussing is the late 1980s and early 1990s, 30 to 40 years ago, correct?

A It's referring to the 1980s and 1990s.

Q And there's not any reference to current-day complaints about overcrowding in apartment complexes or overburdening in apartment complexes, correct?

A The -- that article was written in 2006, and so that -- that

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1 is correct.

11:48:15 2 Q And you don't know what the article means by "overburdened"
3 by apartments north of I-10, correct?

11:48:25 4 A Could you explain that question, please?

11:48:27 5 Q Sure.

11:48:40 6 If you would turn to page 36 of your deposition.

11:48:51 7 A Okay.

11:48:52 8 Q I am at line 8 on page 36. I asked you: (As read) That
9 sentence also refers -- or references that the community north
10 of I-10 was overburdened with apartment complexes. What does
11 "overburdened" mean in the context of this sentence?

11:49:10 12 And what was your answer?

11:49:11 13 A (As read) The person who was making that comment in the
14 newspaper article used that term "overburdened."

11:49:18 15 Q And then I asked you: (As read) Did you personally
16 interview that person, or are you just relying on what that
17 person said in the newspaper article?

11:49:26 18 And what did you say?

11:49:27 19 A I said: (As read) I am relying only on the newspaper
20 article and what the reporter stated.

11:49:33 21 Q Thank you.

11:49:35 22 Going back to your report, page 35, the next paragraph
23 begins, "At some point." Do you see that?

11:49:50 24 A Yes.

11:49:51 25 Q Now, the "at some point" in your report refers to the 1980s

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to 2000, which is 20 to 40 years ago, correct?

A Well, actually, "at some point," by definition, means an indefinite time period, and it certainly refers to after.

Q So if you'll turn again to your deposition, page 36.

A Okay.

Q Beginning at line 19, I ask the question: (As read) The next paragraph on page 35 begins, "At some point in the growing cultural differences between the Spring Branch affluent Anglo American residents and their northern Latino and minority neighbors began to manifest suspicion, political conflict, and outright fear." When you talk about "at some point," can you give me the time period you're referring to?

And what was your answer on page 37, line 2?

A (As read) 1980s to 2000.

Q Thank you.

And you've done no independent research to verify this information, correct?

A I have not done any additional research to add any information to the report that I submitted.

Q And because you did not do any research on politics, political motives, or voting, you cannot opine if politics help explain -- explain the startling different political views between the Latino population and their southern neighbors, correct?

A I'd have to ask you to explain what you mean by that.

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Q Let's turn to page 38 of your deposition.

A Okay.

Q Beginning at line 6, I asked you: (As read) You specifically mention that the Latino -- Latino population and their southern neighbors had startling different political views. Does this mean that politics help explain the differences in their voting?

And what was your answer?

A I said: (As read) I didn't do any research on politics, political motives, or voting.

Q Thank you.

Turn to page 36 of your report.

A I have it.

Q I am going to the second full paragraph beginning with your statement that, "The public schools of Spring Branch also began to reveal the stark differences between the traditional Five Villages south of the Interstate and those Latino schools north. One of the most obvious differences was the rapidly growing problem of rapid overcrowding in the Latino schools compared to those south of the Interstate."

Did I read that correctly?

A Yes.

Q Your use of the word "overcrowding" came from your interview with Ricardo Barnes, of which you have no independent knowledge about, correct?

Mr. Crawford Cross of Andres Tijerina

1 A I read that, those phrases, "overcrowding," in more than one
2 source, more than Barnes's source. There were other people who
3 referred to that and used the term "overcrowding."

1 Q Well, turn to page 39 of your deposition.

1 On page 22, I asked you the question of: (As read) How's
2 the -- how does that suggest there was overcrowding in the
3 Latino schools?

1 And you told me that: (As read) The term "overcrowding"
2 was a term that Mr. Barnes used, and I took that from
3 Mr. Barnes.

1 Correct?

1 A That is correct.

1 Q And you did not do anything to verify what Mr. Barnes told
2 you, correct?

1 A I did not do subsequent research to confirm the statistics
2 or the definition of that term.

1 Q In fact, you don't know the physical size of Spring Branch's
2 various schools that you're referring to on page 36 of your
3 report, do you?

1 A I do not know the size of the schools in -- in
2 Spring Branch.

1 Q And the size of the schools is important to know because the
2 bigger schools can house more students without being
3 overcrowded, correct?

1 A That seems to be a logical statement.

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Q Let's turn to page 39 of your report.

The second full paragraph discusses a \$48 million bond to build new schools north of the interstate. Do you see that?

A I'm looking for page 39 right now.

Q Sure.

A The second full paragraph?

Q Yes, sir.

The very first sentence, "One of the major issues emerging in the 1980s and early 1990 was the passing of a school \$48 million bond to build new schools north of the Interstate."

Did I read that correctly?

A I see that, yes.

Q And that bond was, in fact, passed in 1990, correct?

A As I read it, it was ultimately passed.

Q I would now like you to look at the small notebook on your desk, I guess, for lack of a better word, and ask you to look at Defendants' Exhibit 1.

A Are you talking about -- are you talking about this tab 1?

Q Yes, sir.

It looks like this, just to help you.

A Yes.

Q It's just the one page.

A Yes.

I see it.

Q Okay. Now, you have seen this information piece on the

Mr. Crawford Cross of Andres Tijerina

1 Spring Branch bond packages in 2007 and 2017 before, correct?

11:57:15 2 A I really don't remember.

11:57:28 3 Q If you would look at page 42 of your deposition?

11:57:42 4 A Okay.

11:57:42 5 Q And I'm asking you to look at this particular exhibit, and I
6 ask you if you had seen it before, and on line 25, what did you
7 answer?

11:57:53 8 A (As read) Yes, I have seen it before.

11:57:55 9 Q Great.

11:57:56 10 Now, your report does not mention the 2007 or the 2017 bond
11 packages, does it?

11:58:10 12 A I don't really -- I don't really remember which ones I
13 referred to.

11:58:14 14 Q Well, look at page 39 of your report, and you mention the
15 \$48 million bond, but it doesn't mention the \$597 million bond
16 or the \$898 million bond that were passed in 2007 and 2017, does
17 it?

11:58:36 18 A No, this does not.

11:58:39 19 Q And you're aware, sir, aren't you that the 2007 \$597 million
20 bond went to rebuild about eight schools north of I-10. Are you
21 aware of that?

11:58:57 22 A I haven't really kept up with the other bond packages and
23 news on them.

11:59:06 24 Q And, in fact, at the time you wrote your report, you weren't
25 even aware that the 2007 or the 2017 bonds had even been passed,

Mr. Crawford Cross of Andres Tijerina

1 correct?

11:59:16 2 **A** I did not include them in my report.

11:59:19 3 **Q** And you weren't -- you weren't even aware they had passed,
4 correct?

11:59:22 5 **A** I didn't study them, I didn't find them, and I did not
6 include them.

11:59:31 7 **Q** And are you aware of the schools north of I-10 that the 2017
8 bond went to either refurbish or modify?

11:59:44 9 **A** I have not studied the plans or construction of the schools
10 based on those bonds.

11:59:53 11 **Q** Now, you're aware, aren't you, that Hispanics in
12 Spring Branch, in general, have access to public transportation
13 to allow them to travel to voting locations?

12:00:09 14 **A** Well, I'm generally aware that there is public
15 transportation, yes.

12:00:14 16 **Q** Okay. Are you aware that Latino voters in Spring Branch are
17 able to and are allowed to vote during Spring Branch's eight-day
18 early voting period?

12:00:28 19 **A** I have not studied that. So I can't answer you.

12:00:30 20 **Q** Are you aware whether or not Hispanic voters in
21 Spring Branch, if eligible, are allowed to vote by mail?

12:00:38 22 **A** That is not something that I studied or reported on.

12:00:42 23 **Q** So you're not aware that Hispanics actually need to
24 physically appear to vote on Election Day, are you?

12:00:52 25 **A** I do not, and I have not studied the -- the voting

Mr. Llagostera Redirect of Andres Tijerina

statistics.

Q Then -- you were asked a couple of questions about the new American Bar Association report, which is Plaintiff's Exhibit 138. Do you recall that?

A Yes.

Q Nowhere in this report, anywhere, does it mention either the city of Houston or Spring Branch ISD, does it?

A I did not read intensively the report. So I cannot conclusively make that statement.

THE COURT: Since you've asked the question, I'll assume it doesn't.

MR. CRAWFORD: It does not, Your Honor.

THE COURT: Let's move along.

MR. CRAWFORD: I believe that's all I have right now, Your Honor.

THE COURT: Any redirect?

MR. LLAGOSTERA: Just a few.

REDIRECT EXAMINATION

BY MR. LLAGOSTERA:

Q Dr. Tijerina, do you recall, earlier today, that I asked you the purpose for which you were retained as an expert in this case?

A Yes.

Q And you -- one of the things you stated was that you were here to testify about the history of Latino discrimination in

Mr. Llagostera Redirect of Andres Tijerina

Texas and in Houston and SBISD?

A Yes.

MR. CRAWFORD: Your Honor, at this time I'm going to object to leading.

THE COURT: That's just a prefatory question.

You may answer the question.

BY MR. LLAGOSTERA:

Q Do you recall that we discussed that in the context of Senate factor one?

THE COURT: He did. Move along --

A I did.

THE COURT: -- you're wasting time.

A I did, yes.

BY MR. LLAGOSTERA:

Q Your expert -- your expert report includes opinions about Senate factor one and Senate factor five, is that fair, the history of discrimination and legacy that is borne by the minorities in SBISD?

A That is correct.

Q Okay. And then up on the screen is the bibliography that we looked at earlier, correct?

A Yes.

Q And Mr. Crawford asked you several questions about your interviews with Ricardo Barnes and Noel Lezama. Do you recall that?

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12:03:03 1 **A** Yes.

12:03:03 2 **Q** Okay. And did you consider several other references in
3 Spring Branch ISD in addition to the interviews?

12:03:10 4 **A** Yes, I did.

12:03:11 5 **Q** And these references, were they more recent -- they were --
6 did these include more recent references? If you look at the
7 top three references there's some dates.

12:03:22 8 **A** Yes.

12:03:23 9 **Q** Okay. As a historian, Dr. Tijerina, did you use what you
10 would consider to be sufficient evidentiary material to arrive
11 at the expert opinions in your expert report?

12:03:35 12 **A** Yes.

12:03:37 13 **MR. LLAGOSTERA:** No further questions, Your Honor.

12:03:39 14 **THE COURT:** Thank you, Doctor. You're excused.

12:03:40 15 Plaintiff may call her next witness.

12:03:45 16 **MR. ABRAMS:** Plaintiff calls Ricardo Barnes.

12:03:47 17 **THE COURT:** Okay. Is Ricardo Barnes present?

12:03:49 18 **MR. ABRAMS:** Yes, Your Honor.

12:03:50 19 **THE COURT:** Please come around, sir, and be sworn.

12:03:52 20 Right around here, please, sir (indicating).

12:03:52 21 Please raise your right hand.

12:04:08 22 (Witness sworn.)

12:04:14 23 **THE COURT:** Please have a seat.

12:04:15 24 **RICARDO BARNES, DULY SWORN, TESTIFIED:**

12:04:15 25 **DIRECT EXAMINATION**

Mr. Abrams Direct of Ricardo Barnes

BY MR. ABRAMS:

Q Mr. Barnes, you've been introduced to the judge, so we'll get right to it.

I plan to talk with you about three topics today: First, the demographics in District 1 and the challenges facing the residents of District 1; second, the proximity to voting locations in District 1; and, third, briefly, the responsiveness of the board to the concerns of the Hispanic community, all right, sir?

A Yes.

Q Before we talk about your upbringing and educational history, let's put your testimony in context.

Where do you work?

A I work at Spring Branch Family Development Center.

Q What is the Spring Branch Family Development Center?

A Spring Branch Family Development Center is a collaborative of a number of nonprofits that was created through a need assessment back in 1997, and it was trying to assess what were the needs and problems that the community had in order to be able to mitigate them in a collaborative model.

Q What is your position with the center?

A My position is I'm the executive director.

Q And how long have you served in that role?

A Since inception in 2001.

Q Now, it's also no secret that you and I know each other

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1 because I'm involved with the center, correct?

12:05:40 2 **A** That is correct.

12:05:41 3 **Q** Where is the center that you are the executive director of
4 located?

12:05:46 5 **A** 8575 Pitner.

12:05:48 6 **Q** We've earlier looked at Exhibit 24, which is an
7 illustrative -- a map of an illustrative district for the school
8 board trustees.

12:05:58 9 Can you tell Judge Lake where, with reference to proposed
10 Exhibit [sic] 1, the center is located?

12:06:05 11 **A** It is located in illustrative -- demonstrative District 1,
12 the northeast quadrant close to Hempstead highway.

12:06:16 13 **Q** Is it in this little triangle in the upper portion of
14 proposed District 1?

12:06:20 15 **A** Yes, sir.

12:06:21 16 **Q** Do you know why the center was located where it's located?

12:06:25 17 **A** Yes. After much discernment and review of the community
18 needs, in cooperation with a number of entities, which included
19 the Spring Branch police and Spring Branch ISD and others, it
20 was determined that the site really was the ideal location based
21 on density, based on history, cost of service, and the needs the
22 community was presenting that they were struggling to mitigate.

12:06:51 23 **Q** What does the center that you oversee provide in the way of
24 services? What sort of services go to the community there?

12:06:58 25 **A** Correct. We can categorize them in four different

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categories. We provide services that address needs in education, recreation, health, and social services.

Q Describe, if you would, what medical care is available at the center for the nearby residents?

A Certainly. There is a federally qualified healthcare center that was actually brought to life during the years right after starting the center, as well as a WIC program, which is Women, Infants and Children. That particular program sees in excess of 4500 clients on a monthly basis in the clinic, and then, on the average, about 12- to 1300 new clients a month.

Q With regard to education that's provided at the center, could you tell us what the history of that is?

A Certainly.

Until recently, the Spring Branch ISD ran Panda Path, which was a very successful pre-K and was there since 2001 until recently, when it was moved out. The other educational components include Boys and Girls, which does youth development, as well as the other support services that are provided through other agencies like (indiscernible) --

THE REPORTER: I'm sorry. Like what?

THE WITNESS: Like DePelchin and Family Houston.

A As well as the Harris County Department of Education that provides English as a second language.

BY MR. ABRAMS:

Q What other sorts of services are provided to the surrounding

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community? And we'll turn in a minute to the nature of the surrounding community.

What other services, beyond the ones you just described, are provided at the center for the community in District 1 where the center's located?

A Sure. Among some of the other vital services is the distribution of food that -- we partner with the Houston Food Bank twice a month where we, on the average, distribute in excess of 12,000 pounds of food per event -- we do that twice a month -- as well as access to Medicaid applications and food stamps applications in cooperations with a number of other agencies.

And another aspect to that is a group called WALK30, which is focusing on health and fitness for the community to improve the health outcomes of the community.

Q Where are the nearest residents located in relation to the center facilities?

A Literally across the street. Pitner is about three-quarters of a mile long. In that space, we have in excess of 1700 apartment units that are managed by six -- six different complexes.

Q What's the population along Pitner Road adjacent to and up the street from the center?

A Uh-huh. According to the census information that we have, the most recent -- the American Community Survey from '18 to

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1 '21, it estimates the population to be 7,583 residents.

12:09:41 2 **MR. ABRAMS:** Richard, if we would -- if you would,
3 please pull up Plaintiff's Exhibit 23.

12:09:46 4 **BY MR. ABRAMS:**

12:09:47 5 **Q** Mr. Barnes, Exhibit 23 is a table taken from Dr. Stein's
6 report which contains demographic data of population for the
7 proposed seven districts. Directing your attention to
8 District 1, Dr. Stein concluded that the total population for
9 District 1 is 26,171.

12:10:06 10 Have I asked you to calculate roughly what percentage of
11 the total population in District 1 can be found along Pitner
12 Road near the center?

12:10:16 13 **MR. HENRY:** Your Honor, I think that calls for
14 demographic expert testimony. I don't think there's a
15 foundation for that question with this witness.

12:10:21 16 **THE COURT:** Well, if he knows the answer, he can
17 provide it.

12:10:24 18 **MR. ABRAMS:** Thank you, Judge.

12:10:25 19 **BY MR. ABRAMS:**

12:10:25 20 **Q** It just calls for math, Mr. Barnes. Can you divide the
21 number of residents along Pitner into the total population
22 proposed for District 1?

12:10:34 23 **A** Certainly. It would be close to 28 percent.

12:10:38 24 **Q** What's the ethnicity of the residents located near the
25 center along Pitner Road?

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THE COURT: Let me ask you: What's the relevance of this, as you've already got agreed findings as to the Hispanic voting age population in District 1?

MR. ABRAMS: It's relevant -- it's relevant -- it's relevant, Your Honor, to the social, economic, and cultural conditions in Exhibit -- in the proposed District 1 to which the district has objected. One of their objections to Dr. Stein's proposed plan is that he purportedly didn't take into account the communities of interest and the characters of the district, and Dr. -- and Mr. Barnes is in a position to tell us graphically --

THE COURT: Okay. I've already told you that's a very weak argument on the district's part, but let's go ahead. Let's make the record.

MR. ABRAMS: Thank you, Your Honor.

BY MR. ABRAMS:

Q Mr. Barnes, with reference to the area around the center, which comprises at least 30 -- 28, I think you said, percent of the population of the proposed district, do they share common socio-economic characteristics, and if so, what are they?

A Yes. It's a very limited income area. Most of the children that attend the school down the street, which is Hollibrook, qualify for the free and reduced lunch program.

Q What schools do the children who live adjacent to the center attend?

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1 A Hollibrook will be the -- the elementary school that they
2 will default to based on where -- where it is relative to the
3 center. Northbrook Middle, Northbrook High will be the other
4 two.

5 Q All right. We'll come back to some specific details, but
6 now let's talk briefly about your background.

7 MR. ABRAMS: Could we see Plaintiff's Exhibit 90,
8 please?

9 BY MR. ABRAMS:

10 Q Where were you born and raised, Mr. Barnes?

11 A I was born and raised in Panama.

12 Q Let's look at page 2, I think it is, where your educational
13 background is.

14 Will you tell the judge briefly about your schooling?

15 A Yes. My school- -- my schooling, prior to going to college,
16 was in a gentrified prep school, and then I went to school in
17 Canada in Brunswick. The school is Saint Thomas University.
18 And I came to Texas primarily to conduct my graduate studies.

19 Q What did you do your graduate studies in?

20 A My graduate studies is in clinical psychology and community
21 psychology.

22 MR. ABRAMS: Richard, if you would go back to the full
23 page on page 2 of Mr. Barnes's résumé.

24 BY MR. ABRAMS:

25 Q If you would, give -- give the judge a horseback view of

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your employment experiences before you became the executive director of the center, please.

A Sure. Straight out of college, I became the senior psychologist for the juvenile court in Panama. It was the court of appeals for children. I was an advisory to the judge and to the secretary.

I came to the United States to work directly with a very particular population, and that was at MHMRA working with the young psychotic and schizophrenic population, which was a research interest of mine.

Shortly thereafter, I went off into the clinical world and worked in different psychiatric hospitals running programs or instituting programs, and one of those programs that I managed to institute was with Memorial Hermann, Spring Shadows Glen, and became an integral member, elite member in a mental health assessment team and rapid response team that was there to support the needs of the district going back to 1989, early '90s.

MR. ABRAMS: Let's turn to the first page of Mr. Barnes's résumé, and let's go on up.

BY MR. ABRAMS:

Q Would you finish out your pre-center employment, please?

A Uh-huh. From there, I went to manage psychiatric hospitals, and then I ran the outpatient services for DePelchin. We had a presence in over seven different counties and small cadre of

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1 clinicians and psychiatrists that worked to mitigate those needs
2 that were coming in for the center.

1 2 : 1 4 : 5 4 3 One of the things that we did -- that I particularly did
4 was we ran the clinicians out of the central office and placed
5 them in places where they were most needed, and one of those
6 places was actually in Spring Branch. That ended up becoming
7 one of the foundation kind of data points for the development of
8 the Spring Branch Family Development Center.

1 2 : 1 5 : 1 3 9 **Q** Turning now to the description of your current work for the
10 Family Development Center, you indicate that, among other
11 things, you've been involved with a number of different
12 committees with the school district.

1 2 : 1 5 : 2 4 13 Would you briefly describe your involvement and history of
14 committees working with the school district itself?

1 2 : 1 5 : 3 1 15 **A** Yes. The center's involvement with the district -- the
16 school district has always been a very important component of
17 what we do. I served in a number of -- number of committees,
18 and one of them was the -- the Hispanic Advisory Committee,
19 certainly the Campus Improvement Team at Hollibrook. I served
20 two terms there. I also served two terms at the Campus
21 Improvement Team at Panda Path.

1 2 : 1 5 : 5 7 22 I was part of the -- the bond election. At one point in
23 time, part of a initiative that I describe as board buddies:
24 Invited by one of the board members to be part of the
25 discussions in developing the budgetary needs that will help

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1 mitigate the needs of the community that they were trying to
2 serve.

1 2 : 1 6 : 1 7 3 Q In your capacity as the executive director of the center,
4 how, if at all, do you pay attention to the statistical evidence
5 of what the needs of the community you serve may be?

1 2 : 1 6 : 3 1 6 A We've been tracking the -- the needs of the community since
7 inception. We've been very involved with the -- with the Census
8 Bureau, hosting them and also participating in many of the
9 seminars and training in order to make certain that those that
10 need to be included in the census are included in the census.

1 2 : 1 6 : 4 9 11 Originally, there was a tremendous resistance from some of
12 the population to answer to the census -- questions from the
13 census takers. So we launched a -- a campaign to encourage
14 everyone to consider addressing [sic]. The way that we address
15 this is by explaining that if they are not included in the
16 census, then we are not going to get the financial supports to
17 be able to help -- assist them in the needs that we could assist
18 them with.

1 2 : 1 7 : 1 5 19 Q And is it your regular work with the center and the research
20 you do that forms the factual basis for the opinions you're
21 going to express today about the nature of the community you
22 serve?

1 2 : 1 7 : 2 4 23 A It is.

1 2 : 1 7 : 3 6 24 Q I've got, on the tablet before you, different topics I want
25 to talk with you quickly about the characteristics of District 1

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where the center is located.

What, as a general proposition, is the race and ethnicity of the community you serve in around the center in District 1?

A It's primarily Hispanic.

Q With regard to the income levels in that community, can you tell the Court what the income levels generally are in that district?

A Yes. The medium income for that area is about \$28,000 for a family.

Q With regard to language skills, what is the predominant language in District 1 in and around the center?

A More than 85 percent or so speak primarily Spanish at home.

Q With regard to various common characteristics, or what I will say are challenges, what role does language play in impacting the ability of the community to participate in civic life of the community?

A Well, language is -- can be a barrier, especially when we're talking for recent arrivals, that the adults in the family only speak Spanish, and the children who attend school may be able to speak some English, but perhaps they define themselves that they don't speak English very well.

So communications with all the forces to be then becomes a little more filtered.

Q With regard to the subject of education, what can you tell us about the levels of education that are typically found in the

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1 adult population in District 1?

12:19:07 2 **A** Well, more than 60 percent of the population older than 19
3 has not completed high school, and we have found a tremendous
4 number of the adults that cannot read or write, and doesn't
5 matter what language they speak.

12:19:20 6 **Q** With regard to the availability and access to healthcare in
7 District 1, what light can you shed on that subject?

12:19:27 8 **A** Well, this is somewhat of a dismal statistics, but more than
9 53 percent of the population does not have access to healthcare.

12:19:35 10 **Q** With regard to the general nature of the employment in
11 District 1 with reference to the community you serve, what can
12 you tell us about the employment and income levels and types of
13 employment of the community?

12:19:46 14 **A** Well, this -- this is somewhat of an interesting stats
15 because the level of employment is actually quite high. We have
16 a great number of older than 16 currently employed relative to
17 other parts of the city, but the level of income is fairly
18 depressed.

12:20:04 19 **Q** Can you -- do you know what --

12:20:06 20 **THE COURT:** How do you explain that difference? Are
21 they primarily working in low-income jobs, obviously?

12:20:13 22 **THE WITNESS:** Yes, sir. Mainly focused on service
23 industry, restaurants, construction, yardwork, and those sort
24 of -- those kind of works, and in some cases doing multiple jobs
25 just to be able to reach a level of being able to cover their --

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THE COURT: And working as maids in hotels and things?

THE WITNESS: That would be correct.

THE COURT: Okay. Go ahead.

MR. ABRAMS: Thank you, Your Honor.

BY MR. ABRAMS:

Q With regard to the housing stock, you earlier told us and you've heard that, along Pitner, the housing is exclusively multi-family apartments; is that correct?

A That is correct.

Q And we've already seen, so we're not going to revisit it, the race and ethnicity statistics, but what's the general characteristic ethnically of the 75-plus hundred kids and parents that live along Pitner?

A They're generally Hispanics.

Q During your tenure as an executive director of the center, have you been aware of whether or not the community along Pitner and in and around District 1 has received opposition from the local community and political forces?

A Can you ask that question a different way?

Q Sure.

Has there been any political opposition, for example, the fact that there's 7500 apartment dwellers on Pitner?

A Well, there has been. There was a proposal that was floated to develop an apartment that will be a -- a tax credit apartment, if that's the term, that was strongly opposed by the

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community at large that primarily does not live on Pitner because they didn't want to build any more apartments. 1700 apartments in three-quarters of a mile makes it a very dense population.

Q We just heard a question from the district's lawyer --

THE COURT: Wait a second.

BY MR. ABRAMS:

Q -- about the --

THE COURT: Just a minute. What's the relevance of that question?

MR. ABRAMS: I'm sorry. The relevance of what?

THE COURT: The last question and answer.

MR. ABRAMS: It bears on political opposition to the role of the Hispanics in the civic community. If there is political opposition to the Hispanic community, that bears on one of the factors --

THE COURT: Okay.

MR. ABRAMS: -- racial and ethnic animus in the community.

THE COURT: Well, my concern is not all political opposition may be based on racial and ethnic animus, and some of these questions are very nebulous and could have multiple meanings.

MR. ABRAMS: I'll try to refine it where I can.

THE COURT: Thank you.

Mr. Abrams Direct of Ricardo Barnes

MR. ABRAMS: Thank you, Your Honor.

BY MR. ABRAMS:

Q Counsel for the district recently talked about access to public transportation for folks in District 1.

Do you have personal knowledge about access to public transportation for residents in and around the center and in District 1?

A Yes, very much so. It's been a -- very much of an interest of ours to be in a position to have -- for the residents and the future clients to be able to reach the center. We are in the northeast quadrant of Spring Branch, as I mentioned earlier. Bus -- Metro bus line No. 23 ends at the center, and it's a comfort station for the bus driver, which is great for them.

However, if you live in Spring Branch or have business in Spring Branch, that bus does not take you into Spring Branch. It actually takes you out of Spring Branch. You have to go to The Heights, transfer to another bus, go to the Post Oak Transfer Station, and then take another extension. As an example, to travel just 6 miles will take you more than two-and-a-half hours at the right routing time.

Q Well, let's turn now to topic No. 2, the proximity of the voting locations in District 1 to where the population is, and let's discuss the impact of transportation on that.

MR. ABRAMS: Richard, may we see Plaintiff's Exhibit 110, please?

Mr. Abrams Direct of Ricardo Barnes**BY MR. ABRAMS:**

Q Mr. Barnes, can you see 110 on the monitor in front of you?

A I can.

Q Okay. We've earlier looked at this. This is a map of the early voting locations in the district as they existed prior to the May 2022 election, and we've established there were not any early voting locations in the proposed District No. 1.

Have you determined what access residents in and around the center would have to the early voting locations shown on Exhibit 110 if they were to rely upon public transportation or having to walk to their voting location?

A The walking distance is quite pronounced, at least from my opinion, and in order to reach the closest voting location within this case is 7901 Westview, the residents using public transportation, as I mentioned, will take bus 23 outside of Spring Branch, go to The Heights, transfer to another bus, go to Post Oaks Transfer Station, and then take another bus. They will get somewhat close to that location, but not necessarily to that location.

Q Do you have an estimate of how long it would take to make that route if a resident in and around the center in District 1 wanted to go to the Westview so-called closest location to vote?

A It's been my experience about two, two hours and 15, two hours and 30 minutes.

Q The Court's already heard testimony that at one time the

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district had Election Day voting as opposed to early day voting at each of the 25 elementary schools, and in 2012 reduced the number of Election Day voting to the seven middle schools.

Let's look at Plaintiff's Exhibit 11.

THE COURT: Wait a minute. I want to ask a question here. That exhibit is relevant to which of the Senate factors?

MR. ABRAMS: If you'll give me one second.

THE COURT: I know you're primarily buttressing your expert on -- on the *Gingles* factors, but --

MR. ABRAMS: If you'll give me one quick second to review the -- get back to my *Gingles* factor notes, and I'll tell you, Your Honor.

To the Senate factors, rather.

It relates to the voting practices in Spring Branch with respect to governmentally imposed practices associated with the election, which is --

THE COURT: Which number is that?

MR. ABRAMS: I confess I'll have to look at the factors and give it to you later, Judge.

THE COURT: No, I want to talk about it now while I'm focusing on it. Just a minute.

MR. ABRAMS: All right. Well, let me pull up my note on the Senate factors. Excuse me.

THE COURT: Is it...

You've been focusing on one and five. Is that -- is

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1 this under one of those two, or are we dealing with a third
2 Senate factor?

1 2 : 2 7 : 2 3 3 Anybody at the table can answer the question. It
4 doesn't have to be you, if anybody knows.

1 2 : 2 7 : 3 3 5 **MR. ABRAMS:** It's -- I believe it is three, the extent
6 to which the state or political subdivision has used unusually
7 large election districts, majority vote requirements, anti-shot
8 [sic] provisions or other voting practices or procedures that
9 may enhance the opportunity for discrimination against the
10 minority group.

1 2 : 2 7 : 5 5 11 **THE COURT:** Okay. Do you have your eight factors in
12 front of you? Because I --

1 2 : 2 7 : 5 8 13 **MR. ABRAMS:** No.

1 2 : 2 7 : 5 9 14 **THE COURT:** Can you -- can you -- I guess we could
15 take it up at the end of the day. I have a question, but I'll
16 wait.

1 2 : 2 8 : 0 5 17 **MR. ABRAMS:** But I do believe, with respect to the
18 access to voting --

1 2 : 2 8 : 0 8 19 **THE COURT:** I understand. I -- you're not prepared to
20 deal with it. I'll deal with it later.

1 2 : 2 8 : 1 3 21 **MR. ABRAMS:** Thank you, Your Honor.

1 2 : 2 8 : 1 7 22 **THE COURT:** But when I talk about it, put this up on
23 the screen, okay, when we talk about it later. Remind me of
24 this.

1 2 : 2 8 : 2 4 25 **MR. ABRAMS:** I will. I'll make a note that we're

Mr. Abrams Direct of Ricardo Barnes

1 looking at one -- Plaintiff's Exhibit 110.

1 2 : 2 8 : 2 8 2 **THE COURT:** Okay.

1 2 : 2 8 : 3 2 3 **BY MR. ABRAMS:**

1 2 : 2 8 : 3 2 4 **Q** We're now going to shift to Election Day voting locations,
5 Mr. Barnes.

1 2 : 2 8 : 3 6 6 Let's look at Plaintiff's Exhibit 11. This is the district
7 map that shows the location of its various schools, including
8 its elementary schools, and we've already talked about the fact
9 that if you look at the 25 red dots, those are the elementary
10 schools, and if we look at the green dots, those are the middle
11 schools.

1 2 : 2 8 : 5 6 12 So have you compared the distance or time between the
13 center and the early -- pardon me, the elementary school
14 locations where center residents once could vote?

1 2 : 2 9 : 0 8 15 **A** Well, considering the center is located where 129 is, yellow
16 dot, and the nearest school is 105, which is Hollibrook, the
17 distance there is -- it's within walking distance. It will
18 take, on the average, about 30 minutes.

1 2 : 2 9 : 3 0 19 **Q** Then with respect to the change that's been made, which
20 requires those voters to go to the middle school to which
21 they're zoned, which is 47, have you evaluated the
22 transportation times either by walking or, again, if they were
23 to try to figure out a bus route, how that would impact their
24 ability to access the middle school Election Day voting site?

1 2 : 2 9 : 5 3 25 **A** I personally have walked that distance, not very often and

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not because it's fun, but just because I wanted to know, and
I -- and it's -- it took me about an hour and 30 minutes.

THE COURT: I want to raise the issue now because it
keeps coming up. Find your eight Senate factors. This exhibit
raises the same problems.

It's on page 49 of your amended proposed findings.

MR. ABRAMS: Ah, okay. Do we have those handy?

I was looking for my legal memorandum, Judge.

If you'll give me one second.

THE COURT: Does defense counsel have that?

MR. ABRAMS: I do. Well, I'm sorry. I don't know --

MR. HENRY: We have the Senate factors, yes.

THE COURT: Okay. If you look at A, the extent any
history of official discrimination; if you look at C, which
we're talking about now, majority vote may enhance the
opportunity for discrimination, it doesn't refer to official
action there. In E, bear the effect of discrimination.

If we look at this exhibit, the effect of the change
from elementary to middle schools could be to negatively impact
Hispanic voter participation; however, the testimony earlier --
am I not making sense?

MR. ABRAMS: No, you are. I'm just following.

THE COURT: Well, you're -- okay. I heard testimony
earlier which -- other witness was not disputed that the change
from elementary to middle schools was a cost-saving measure and

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1 motivated, in part, by the difficulty of the state providing
2 that number of election machines.

1 2 : 3 2 : 1 8 3 So here's the question -- and I'm not an expert on
4 these Senate factors, although, hopefully, I will know more at
5 the end of the trial than before, but in -- in an area which I
6 am familiar with, which is Section 1983 -- I'm reading from an
7 old treatise: (As read) That a governmental act has a racially
8 disproportionate impact does not necessarily mean that it is
9 unconstitutional, citing *Washington versus Davis*, 426 U.S. 229
10 at 239. Rather, purposeful discrimination must be proved,
11 citing *Village of Arlington Heights versus Metropolitan Housing*
12 *Development*, 429 U.S. 252, 1977.

1 2 : 3 3 : 2 4 13 Now, I don't want you to ever cite the U.S. Reports
14 because nobody has them, but I have to cite them here. So in
15 all your future filings, cite the Supreme Court Report, not the
16 U.S. Reports, which are published solely to impose cost burdens
17 on federal courts to buy a copy.

1 2 : 3 3 : 4 3 18 **MR. ABRAMS:** Fair enough.

1 2 : 3 3 : 4 3 19 The answer to your question is easy, though.

1 2 : 3 3 : 4 5 20 **THE COURT:** Okay. What I'm getting ready to ask is --
21 No. 5 talks about the effect of discrimination. So referring to
22 this exhibit, the effect of the change from elementary to middle
23 schools could be discriminatory. That's the effect, but A and
24 B -- or A and C deal with discrimination. So I don't know
25 whether intent is an issue there or whether effect is the

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standard. Do you know?

MR. ABRAMS: Yes.

THE COURT: Good. Tell me the answer.

MR. ABRAMS: The answer is fairly simple because the reason the act was amended -- the Voting Rights Act was amended in 1982 was to overrule the Supreme Court's prior requirement that there be an intent element in proving a voting rights violation. And the Senate factors were designed to make explicit that proof of a violation of the act does not require any proof of any discriminatory purpose or intent. The act is violated based upon a results standard.

When the Court concludes that in the context of the circumstances in the jurisdiction in question, the challenged practice, quote, results in minorities being denied equal access to the political process. That's found at page 27 of the Senate report.

THE COURT: Okay.

MR. ABRAMS: So --

THE COURT: So the fact that -- that the district proposes a benign reason for changing voting locations and a benign reason for the disparate impact in early voting locations is not relevant. I only look at the effect.

MR. ABRAMS: That is correct. And we did not bring and we are not charged with the burden of establishing discriminatory intent under either the Fourteenth or Fifteenth

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Amendment. We are entitled to rely upon the results test that the 1982 amendment to the Voting Rights Act implemented to reverse prior contrary Supreme Court authority. And so the Court is directed, under the Senate report and *Gingles*, to look at the results, which is why intent is irrelevant.

And that's why we wanted the Court, in all candor, to know the decision to change these voting locations was ignorant of the result or impact on the minority population, but with respect to the totality of the circumstances, the result is still the same. The result was to have a negative impact that impairs access to the voting sites, and under Section 2, that's the relevant factor because we're not bringing a Fourteenth Amendment or Fifteenth Amendment discriminatory case.

We do think, and we've put on evidence, that there are historical antecedents that reflect discriminatory practices. We don't have to prove that. That's --

THE COURT: Okay. Well --

MR. ABRAMS: -- that's color.

THE COURT: -- I'm just telling you some of that evidence is of marginal relevance.

What do you have to say?

MR. HENRY: All I have to say is that the Senate factors, there's lots of precedent that says not all of them are relevant in every case, and they vary in importance from case to case. And so I would say if there's no evidence of

Mr. Abrams Direct of Ricardo Barnes

discriminatory intent, that means that factor should lay --
weigh less in the decision as far as --

THE COURT: I'm going to need some law on that. That
doesn't make sense. But not now, but later.

All right. We'll take a noon recess -- it's after
noon. We'll stand in recess until 130.

MR. ABRAMS: Judge, I just wanted to note the only
reason I have not stood up when I've been addressing you is
because I'm trying to stay near the mic. I would ordinarily
stand up, and I'm trying to figure out how to juggle access to
the mic and standing.

THE COURT: Well, that's a difficult job. That's why
you're lead counsel, because, hopefully, you can figure that
out.

MR. ABRAMS: I wanted to apologize to you for not
standing.

THE COURT: You don't -- you can -- frequently, I get
questions from lawyers, "Where should I sit? Where should I
stand?" I don't care as long as we can hear you. You can --
you can -- anyway, I won't give you an old war story. Thank
you.

(Lunch recess taken from 12:38 p.m. to 1:31 p.m.)

THE COURT: Be seated, please.

You may conclude your examination, Mr. Abrams.

MR. ABRAMS: Thank you, Your Honor.

Mr. Abrams Direct of Ricardo Barnes

13:31:45 1 BY MR. ABRAMS:

13:31:45 2 Q Mr. Barnes, we're going to move to topic three that I said
3 we would visit about, and it's going to be very brief: The
4 responsiveness of the board to the concerns of the community.

13:31:53 5 The Court's already heard information about the school
6 closures and Panda Path. So we're not going to cover that
7 again, but you have personal knowledge about that, correct?

13:31:59 8 A That is true.

13:32:02 9 Q Before the 2024 election, did a local Hispanic group host a
10 public candidate forum for the trustee candidates at the center?

13:32:10 11 A Yes.

13:32:12 12 Q And were all of the school board candidates invited to
13 attend?

13:32:16 14 A To how I was informed, the answer is yes.

13:32:19 15 Q And that included Mr. Earnest, who was running unopposed,
16 and Mr. Slattery, who, ultimately, was the successful candidate
17 for the contested race?

13:32:28 18 A That is correct.

13:32:29 19 Q Did either Mr. Earnest or Mr. Slattery attend the public
20 forum at the center?

13:32:36 21 A They did not.

13:32:37 22 Q Do you have a view about whether or not it would be
23 beneficial or detrimental for the residents in and around the
24 center and in District 1 to have the opportunity to elect their
25 preferred candidates to the board?

Mr. Henry Cross of Ricardo Barnes

13:32:50 1 **A** I do.

13:32:51 2 **Q** What's your opinion?

13:32:52 3 **A** My opinion is that a fair representation of someone that
4 understands the nuances, the challenges, and the aspirations of
5 the area would be the best and -- or perhaps the better equipped
6 person to sit at the table to make decisions on their behalf.

13:33:10 7 **Q** Thank you, sir.

13:33:11 8 **MR. ABRAMS:** We'll pass the witness.

13:33:12 9 **THE COURT:** All right. You may proceed.

13:33:14 10 **CROSS-EXAMINATION**

13:33:18 11 **BY MR. HENRY:**

13:33:25 12 **Q** Good afternoon, Mr. Barnes.

13:33:27 13 Have you ever worked for Spring Branch ISD?

13:33:33 14 **A** No, not as an employee.

13:33:36 15 **Q** You volunteered as a volunteer?

13:33:40 16 **A** I have, yes.

13:33:40 17 **Q** In what capacity?

13:33:42 18 **A** Well, participating in the number of different committees
19 that I represented, but prior to my work with the Spring Branch
20 Family Development Center, as I mentioned earlier in talking
21 about my résumé, my work as a elite clinician doing the mental
22 health assessments that were coordinated with the school
23 districts throughout the campuses.

13:34:06 24 **Q** So tell me about those mental health assessments.

13:34:09 25 Did the school district coordinate with you to perform

Mr. Henry Cross of Ricardo Barnes

1 those assessments on campuses? How did that work?

13:34:15 2 **A** The arrangement was primarily with Spring Shadows Glen. It
3 was a psychiatric hospital in existence at that time, and our --
4 our task was to provide a clinical service in moments of crisis
5 that we were called upon to perform.

13:34:33 6 **Q** And did those assessments take place on Spring Branch
7 campuses?

13:34:38 8 **A** Yes.

13:34:40 9 **Q** With regard to the Spring Branch Family Development Center,
10 you testified that it was begun in 2001 after a needs assessment
11 was conducted, correct?

13:34:50 12 **A** That's correct.

13:34:50 13 **Q** And is it correct that Spring Branch ISD partnered with the
14 center in 2001 to conduct that needs assessment?

13:34:57 15 **A** Very much so.

13:34:59 16 **Q** Earlier, you testified about your observations about the
17 Hispanic population in -- in your neighborhood -- or the
18 neighborhood around the Spring Branch Family Development Center.
19 Are you aware of what percentage of that population are eligible
20 voters?

13:35:16 21 **A** That's not something that I track.

13:35:18 22 **Q** Are you aware of what percentage of that population actually
23 turn out to vote?

13:35:22 24 **A** Not aware of that.

13:35:24 25 **Q** I'm going to show you Plaintiff's Exhibit 110. I'll put it

Mr. Henry Cross of Ricardo Barnes

on the document camera.

MR. HENRY: Your Honor, am I broad- --

THE COURT: I'm trying to get it on.

MR. HENRY: Thank you. I appreciate it.

BY MR. HENRY:

Q And this is the exhibit that identified early voting locations within the district for the May of 2022 election, correct?

A That is correct.

Q Are you aware that the school district has added two early voting locations that were added for the 2023 election?

A Not aware.

Q Were you aware that, though, both of those locations are north of I-10, one on the border of Spring Woods and Northbrook, and one in the Spring Oaks Middle zones that are shown on that exhibit?

A Okay.

Q Earlier you testified that until this school year, Spring Branch ISD housed its pre-K program at the -- at the SPFDC, correct?

A That is correct.

Q Are you aware that the school district did not eliminate the pre-K program, it simply moved the pre-K program down the road to the Hollibrook Elementary School?

A You're asking me if I -- I believe that, or is that your

Mr. Henry Cross of Ricardo Barnes

1 statement about what happened?

13:37:19 2 Q I'm asking if you're aware that the school district moved
3 that program to Hollibrook.

13:37:24 4 A I'm aware that the Panda Path school, as it was, is no
5 longer in existence.

13:37:29 6 Q But you're not aware that those students were able to enroll
7 at the elementary school down the street called Hollibrook
8 Elementary School?

13:37:38 9 A A portion of them were, yes.

13:37:44 10 Q Do you know about how far Hollibrook is from the center?

13:37:47 11 A About a mile.

13:37:52 12 Q And you're aware that that pre-K program is still for free
13 at Hollibrook?

13:37:58 14 A Absolutely.

13:38:00 15 Q Is it correct that SBISD was paying the center \$210,000 or
16 more per year in rent to have its program at your facility?

13:38:11 17 A About that, yes.

13:38:12 18 Q Do you know what percentage of your -- of the center's
19 funding per year that rent represented?

13:38:21 20 A Not off the top of my head, no.

13:38:22 21 Q Was it a significant proportion?

13:38:25 22 A It was proportional for that particular building, yes.

13:38:31 23 Q And you understand that SBISD was recently confronted with a
24 massive budget issue presented by the state?

13:38:42 25 A Total challenge, yes.

Mr. Abrams Redirect of Ricardo Barnes

MR. HENRY: Pass the witness.

THE COURT: All right. Thank you, Mr. Barnes.

MR. ABRAMS: Just one or two questions.

REDIRECT EXAMINATION

BY MR. ABRAMS:

Q With regard to the questions about children at Panda Path moving to Hollibrook, are all of the students, three- and four-year-olds, that used to be able to get early childhood education at Panda Path served at Hollibrook?

A No.

Q What's the story with regard to the children in the three-year-old category? Do they get served at Hollibrook?

A No. That was not an option presented to the three-year-olds -- with families that had three-year-olds that required education.

Q With regard to the four-year-olds, you've indicated not all of them are served at Hollibrook.

Where is the nearest location for the children that can't be served at Hollibrook that formerly walked down the street to Panda Path?

A For the three-year-olds?

Q No, the four-year-olds.

A There were a variety of other options presented based on where they were zoned, and some, I understand, were offered an option at Lion Lane; also at Edgewood; and there may have been

Mr. Henry Recross of Ricardo Barnes

other campuses as well.

Q All of which are distant from the center; is that correct?

A Yes.

MR. ABRAMS: Pass the witness.

THE COURT: Anything else?

MR. HENRY: Only one question.

RECROSS-EXAMINATION

BY MR. HENRY:

Q Are you aware that the school district provides buses for those students to go to schools that are further from their homes?

A Only to the four-year-olds. The three-year-olds are not afforded transportation, my main reason and concern for many of the things I decided to extend.

MR. HENRY: Pass the witness. No further questions.

THE COURT: Thank you. You're excused.

You may call your next witness.

MR. ABRAMS: Thank you. At this time, Your Honor, the plaintiff will call the plaintiff, Dr. Virginia Elizondo.

THE COURT: Please come around and be sworn.

(Witness sworn.)

THE COURT: Please be seated.

You may proceed.

MR. ABRAMS: Thank you, Your Honor.

VIRGINIA ELIZONDO, DULY SWORN, TESTIFIED:

Mr. Abrams Direct of Virginia Elizondo

DIRECT EXAMINATION

BY MR. ABRAMS:

Q Dr. Elizondo, where and when did you receive your doctorate?

A I received it from the University of Houston in 2013.

Q And what area is your doctorate in?

A It's from the College of Education of Professional Leadership.

Q Before we discuss your background and experience that led to this lawsuit, I want to talk briefly with you about why you filed a lawsuit and pursued it.

You've been a candidate for a position on the school board twice, and you lost both times, right?

A Yes, I did.

Q Is that why you filed the lawsuit, because you're a disgruntled, unsuccessful candidate for public office?

A No, sir.

Q Why have you filed the lawsuit?

A I filed the lawsuit because the at-large system is unfair. No matter any way you -- you put it, the Latino voice is never going to be strong enough. We're always going to have to rely on the white voters to agree with the values of the Latino voters in order to win an election in this current at-large system.

Q Do you view yourself as a sort of representative for the Latino or Hispanic community in Spring Branch in bringing this

Mr. Abrams Direct of Virginia Elizondo

1 lawsuit?

13:42:03 2 **A** Yes, I do.

13:42:05 3 **Q** Has your pursuit of this lawsuit taken a toll on you
4 personally?

13:42:10 5 **A** Yes, it has.

13:42:12 6 **Q** How?

13:42:13 7 **A** Early on, there were some concerns with safety. My husband
8 had to chase someone from out -- from -- that was parked in
9 front of our house. We also -- there was a lot of very
10 unfavorable things written about me in social media, on text,
11 and e-mails: chains and in group messages.

13:42:30 12 And professionally, I had some contracts out there for my
13 company that was working with districts to help improve and do
14 program audits of their bilingual programming, because that's
15 one of my areas of expertise, and contracts that were out got
16 declined. Folks called me and let me know they couldn't do
17 business with me. Some of their school boards had issues with
18 who I was and the fact that I had filed this lawsuit, and so
19 that's also been another -- another big issue for me.

13:43:05 20 **Q** We'll cover it in a little bit more detail in a few minutes,
21 but did you apply for employment at the school district for
22 positions for which you were objectively well qualified?

13:43:14 23 **A** Yes, I did.

13:43:16 24 **Q** What became of that?

13:43:17 25 **A** I couldn't even get an interview.

Mr. Abrams Direct of Virginia Elizondo

Q Well, why have you persevered in bringing this lawsuit despite what you've described as these issues affecting you personally?

A Because it's the right thing to do. I -- my entire career has been dedicated to try and help people and to stand up for folks who can't stand up for themselves, and I really, truly feel that they were -- this was something that needed to happen. And even though all this is going on, at the end of the day, if I'm able to make this change, this is really going to help so many people and stop so many of the negative things that are happening and the negative impacts that are happening to our students, to our children, to our families.

Q Now, you've hired my law firm, Blank Rome, on a pro bono basis to represent you in the case, right?

A Yes.

Q Who's the lawyer that introduced you to me and Blank Rome?

A James Shaddix.

Q Is it fair to say that because this is being handled pro bono, along the way you're not being required to pay an attorney's fee or pay the expenses, but in the event you prevail and are entitled to a fee from the Court, that's what you expect will happen?

A Yes.

Q Now, let's talk a little bit about your personal background and experiences that predate the lawsuit.

Mr. Abrams Direct of Virginia Elizondo

Where do you currently live?

A On 9235 Blankenship, Houston, Texas 77080.

Q How long have you lived there?

A I've lived there for about 12, almost 13 years.

MR. ABRAMS: Let's look at Exhibit 24, please,
Richard. That's the map of illustrative districts.

BY MR. ABRAMS:

Q Is your home located in District 1?

A Yes, it is.

Q The district's already acknowledged that you're a U.S.
citizen, you're a registered voter, and you've consistently
voted. So we don't have to cover that, but are you a married
woman?

A Yes, I am.

Q How long have you been married?

A Thirty-three years.

Q And is your husband still working?

A He's retired.

Q Do you and your husband have a family?

A Yes, we do.

Q What -- what child or children do you have?

A I have a son. His name is Dominick, and he's 19 years old.

Q What's Dominick doing?

A He's in college at the Houston Community College. He's
studying digital gaming and simulation.

Mr. Abrams Direct of Virginia Elizondo

Q Did your son go through the Spring Branch schools?

A Yes, he did.

Q Did he go through schools, among others, in District 1?

A Yes.

Q And, ultimately, where did he graduate from in the district?

A He graduated from Westchester Academy.

Q Where were you personally born and raised? Where'd you grow up?

A I grew up in the east end of Houston in a barrio called Magnolia.

Q We heard Dr. Tijerina mention a "Magnolia" as being a largely Hispanic area of town. Is that what you're talking about?

A Yes, I am.

Q We're not talking about the city Magnolia?

A No.

Q Just for our record -- excuse me -- are you of Latino or Hispanic heritage?

A Yes, I am.

Q Tell me a little bit about your parents, their background and employment.

A My parents are both Latinos, and they're both bilingual.

And my mom was a homemaker, but at the end of the day,

unfortunately, they divorced, and so she actually became a

driver that would transport body parts because she did have that

Mr. Abrams Direct of Virginia Elizondo

1 license because, for a while, my dad had a -- he had opened up
2 his own bus service. And so my mom used to work for him, and so
3 she had the proper license to be able to do that.

13:46:39 4 Q And how about your dad? What was his employment?

13:46:41 5 A He was -- he started as a salesperson, and then he switched
6 over and opened up his own business.

13:46:47 7 Q Where'd you go to school when you were growing up?

13:46:49 8 A I went to Franklin Elementary and Edison Middle School, and
9 then I went to the High School for Law Enforcement and Criminal
10 Justice.

13:46:56 11 Q Did you graduate from high school?

13:46:57 12 A No, I did not.

13:46:58 13 Q Why not?

13:47:00 14 A Because I went to schools that were not serving our
15 Latino -- it was a predominant Latino campus. We were not being
16 given very wonderful education. I had that math teacher that
17 used to walk in and write the workbook pages on the door -- I
18 mean, on the board, and then put his -- kick his legs up, pop
19 open the newspaper, and you had a problem, he would just say,
20 "Skip it. Don't worry about it."

13:47:24 21 So when I got to high school, I had deficiency already in
22 math, and my algebra ninth grade teacher was actually a
23 kindergarten teacher that had been placed there to make her
24 uncomfortable so she would quit her job because she had a
25 continuing contract, which is like tenure. They don't really do

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1 those contracts so much anymore these days. And she was there
2 for two years, but everybody got a lot of stickers and a lot of
3 As.

1 3 : 4 7 : 4 6 4 Third year of math, which is a requirement at the time, we
5 got a real math teacher and everybody failed. I couldn't stay
6 for tutorials because I was reliant on transportation, and the
7 school district wasn't providing it for tutorials. So during
8 summer, a friend of mine said I could stay with her for the
9 summer to go to summer school, but back then you used to have to
10 pay for summer school, a little over \$100, which I definitely
11 didn't have. I snuck into summer school. About 40 minutes in,
12 they found that I hadn't paid, and they kicked me out.

1 3 : 4 8 : 1 6 13 And so I went back my senior year. I stayed till December,
14 and I left after winter break because I knew I wasn't going to
15 graduate, and I was very ashamed.

1 3 : 4 8 : 2 6 16 Q Is there a gap in your schooling, then, from when you
17 dropped out of high school and when you got your later academic
18 degrees?

1 3 : 4 8 : 3 2 19 A Yes.

1 3 : 4 8 : 3 3 20 Q Let's look at your résumé.

1 3 : 4 8 : 3 4 21 MR. ABRAMS: Exhibit 61, please.

1 3 : 4 8 : 3 6 22 BY MR. ABRAMS:

1 3 : 4 8 : 3 6 23 Q And if we could, let's look at page 3, which covers your
24 education.

1 3 : 4 8 : 4 3 25 When and how did you get to college -- from dropping out of

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high school to going to college? And your educational background --

MR. ABRAMS: There we go. Thank you.

BY MR. ABRAMS:

Q -- has been blown up on the screen for us.

A Well, my youngest brother-in-law was going to go to college. He had a really great teacher at his school that was helping him know -- learn how to do this process, and he would come home and talk to me about it and tell me if I could help him with some things here and there.

And I always wanted go to college; never knew how to do it or, you know, how -- I used to think it was free. And -- and so with that, I started investigating. I found out the University of Houston-Downtown offered open admissions at the time. So you didn't have to have a certain SAT or ACT score to get in. They basically let you in. If you were going to stay, it was up to you.

And, thankfully, I did. I stayed, and I got my degree.

Q And we're going to jump ahead in your education, and then we'll circle back to see what you did employment-wise in between, but what were your other educational stops along the way to your doctorate?

A And then as I -- I taught for a while. I was very active at my campus, and the principal -- I was -- I always ended up being one of the most outspoken teachers, and the principal's like,

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"You know, why don't you just become a principal?" And it wasn't something I had ever thought about, and so then I found out about University of Houston offering a masters program at night. So I could work during the day and go to school at night, and I did that, and I also received -- I received that masters degree, as well as my certification as a principal.

Q And then, again, we'll go back to your employment, but tell me about the leap forward to receiving your doctorate.

A My professors in my masters program were very adamant, and they told me -- they're like, "You're already here. We need more women with doctoral degrees, and we definitely would like to see more Latinas." And so I continued on, and I thought about the impact I could have on a broader scale than just one campus because, along with getting that degree, I got my certification as a superintendent.

Q Let's look back at your certifications on this page of your résumé, and just briefly explain to us what they -- what they mean.

A The superintendent EC through 12, it means that I can work as a superintendent in a public school district. The principal certification K-12 means that I can also become a principal at a campus. The bilingual generalist EC through four was my teaching certification, which meant that I could teach children in mainstream ESL classrooms and bilingual classrooms from early childhood to fourth grade.

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ESIO is evaluating and improving student outcomes. This is a training that's provided and required by school board -- for school boards to take by the State of Texas. And Dare to Lead is a certification from a program that's also for coaching.

Q Because you're certified as a bilingual generalist, I think it goes without saying you are bilingual, correct?

A Yes. Yes, I am.

Q In what languages?

A Spanish and English.

Q Let's look then, briefly, at page 4 of your résumé with regard to your presentations and publications.

Can you just generally describe the subject matter in which you have published and given presentations? We don't need to go through them in detail.

A Okay. The main focus has been with students that are English learners, different capacities, as well as refugee students, immigrant students, newcomer students, dual language education at the elementary and secondary campuses, and primarily focusing on that type of education.

Q Does page 4 of your résumé accurately describe various of your professional publications and presentations?

A Yes, it does.

Q Turning now to page 3 of your résumé, there's a reference to affiliations.

Can you discuss or tell us the significance of your

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professional recognitions and certifications -- professional recognition, I guess?

A Yes. There you have highlighted is I was a member of the Association of Latino Administrators and Superintendents, as well as I was a fellow with the Texas Education Policy Institute, and later became a co-chair.

MR. ABRAMS: And, Richard, if you could go up, I believe we have a section called "Recognitions," if you wouldn't mind blowing that up.

BY MR. ABRAMS:

Q Are these some of the different groups with whom you have worked and/or received recognition?

A Yes, it is.

Q Page 4 of your résumé describes some of your involvement with Spring Branch ISD in service on various committees. Looking at the section "Community Experience," can you tell us what the role of co-chair of the district's Visioning for the Future Committee involved?

A That -- that committee was focusing on where did we want to see our students -- what education, what things did we want our children to know by the time they left fifth grade, by the time they left eighth grade, and by the time they left high school. And so we were able to work together to put together the information of what we wanted to see our students be exposed to.

Q Your résumé also indicates you were chair of the district

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improvement team.

What is or was the district improvement team that you chaired?

A Yes. The district improvement team comes together to create goals and a plan in order to kind of show what we're going to do to try to help improve things and at -- district wide.

Q With reference to the entries for member of the Bond Committee and co-chair of the Long-Range Facilities Committee, what did that work entail on behalf of the district as a volunteer?

A The Long-Range Facility Committee was a year-long commitment, and this was a committee where we were taking a look at the conditions at different campuses and also utilizing information from the maintenance and operations department to determine the list and needs for the different campuses, if they needed to be total rebuilds, if they needed to have things added to them, and that was a year-long commitment.

Q Now let's briefly review your employment experience in the education field after you got out of college.

Pages 1 to 3 of your résumé pick up with -- if you go to page 3, page 3 shows you start -- pardon me, page 2. Sorry.

Page 2 shows you start with August 2012. What was your employment experience between college in 2000 and the 2012-2013 period?

A So I worked as a teacher initially in Spring Branch ISD, and

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1 I worked there for about a decade, and then I moved on when I
2 started getting my masters and moving into leadership roles, and
3 I moved on to Houston Independent School District where there
4 were more openings for assistant principal, which is the
5 position I was looking for.

13:55:34 6 Q If we want to track your employment chronologically --

13:55:36 7 MR. ABRAMS: Richard, if you go to the next page,
8 please, there's a section, I think, called -- no, I'm sorry, the
9 next page, page 3.

13:55:43 10 BY MR. ABRAMS:

13:55:43 11 Q "Additional Experience" is where you describe, in your
12 résumé, your prior work with Spring Branch?

13:55:48 13 A Yes.

13:55:49 14 Q And, roughly, what years did that span?

13:55:52 15 A I want to say it was 2000- -- I don't remember specifically.
16 I remember I left in about 2012.

13:56:00 17 Q And you spent roughly --

13:56:02 18 A But I was there for about ten years.

13:56:03 19 Q And you spent roughly how long with Spring Branch before you
20 moved on?

13:56:06 21 A I remember ten years because I got my ten-year pin.

13:56:10 22 Q Let's go back, then, to the next page and start at the
23 bottom. And can you review chronologically, just very briefly
24 for us, your track through the educational process?

13:56:21 25 A So after I was a teacher, then I moved on to become an

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1 assistant principal, and I did that for a couple of years
2 working with an elementary campus and then further working with
3 a PK through eighth grade campus. Then I went to go work -- was
4 recruited, actually, to go work in the multilingual department
5 for the district.

13:56:41 6 And then, later, I was -- I was given the position to head
7 the department over immigrant, refugee/asylee, as well as
8 secondary dual language.

13:56:54 9 Q And your employment with HISD as multilingual manager ended
10 in the summer of 2018; is that right?

13:57:05 11 A Yes.

13:57:05 12 Q What'd you do thereafter?

13:57:06 13 A I went to go work with an educational technology company
14 that was making literacy accessible to students that were in
15 poor and rural areas throughout the United States.

13:57:17 16 Q Your résumé indicates you've had a role with University of
17 Houston-Downtown.

13:57:21 18 What has been your educational role with U of H as an
19 instructor?

13:57:25 20 A Yes. I was teaching preservice bilingual and ESL teachers.

13:57:31 21 Q You filed this lawsuit in June of 2021, correct?

13:57:35 22 A Yes.

13:57:36 23 Q And you've earlier described what's happened to your work
24 opportunities since then.

13:57:42 25 When did you approach Spring Branch about a potential

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1 position in an area in which you considered yourself qualified?

13:57:50 2 A Last year.

13:57:51 3 Q What was the position?

13:57:52 4 A Assistant principal at a middle school.

13:57:54 5 Q What was the school?

13:57:56 6 A Spring Woods.

13:57:57 7 Q Where was the school located --

13:57:58 8 A North.

13:57:58 9 Q -- north or south?

13:58:00 10 A North.

13:58:01 11 Q What were the racial and ethnic characteristics of the
12 school?

13:58:04 13 A They had a large Latino population. They had almost
14 30 percent of English-learner students.

13:58:10 15 Q What were the economic characteristics of the school?

13:58:13 16 A Low income.

13:58:13 17 Q Did it have -- what sort of ESL population did it have?

13:58:17 18 A I want to believe it was a little over 30 percent, and I
19 don't know the exact number.

13:58:21 20 Q Generally, what was the student achievement level at the
21 school?

13:58:24 22 A They had been struggling. They had had some -- I believe
23 they had had some TEA folks up there talking and working with
24 them.

13:58:31 25 Q What experiences had you already had that you thought would

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be relevant to serving as an assistant principal at that school?

A Well, my experience in working with the English-learner students, one of the focuses, especially in middle school that we focus on, is the fact if you have students who started the program very early on, pre-K and K, and yet somehow they haven't been successful enough to exit the program by the time they leave elementary -- and those are called long-term students, English learners. And so some of my area of specialty are to help get those students to be successful and being able to exit the programming.

I also have, of course -- I was bilingual, which is helpful when you have a -- want to be able to interact with parents, and I also had expertise in secondary dual language, and they have a secondary dual language program on that campus.

Q Did you have any required certifications for the position?

A Yes, the principal certification.

Q What response did you get?

A None.

Q Did the district even favor you with an interview?

A No.

MR. ABRAMS: Richard, let's please look at Plaintiff's Exhibit 113, please.

BY MR. ABRAMS:

Q Exhibit 113 is taken from Plaintiff's Exhibit 67. This is information the district's provided regarding the race and

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1 ethnicity of its staff as of 2021, the year they provide the
2 information.

13:59:53 3 Does the statistical information on Exhibit 113 square with
4 your familiarity with the composition of the workforce in
5 Spring Branch?

14:00:03 6 **A** Yes.

14:00:04 7 **Q** So, for example, what middle school did you say you had
8 applied for?

14:00:09 9 **A** Spring Woods.

14:00:11 10 **Q** And at Spring Woods, according to the district,
11 63.89 percent of the staff was not Hispanic. And we've seen
12 earlier that that's largely a Hispanic campus, right?

14:00:21 13 **A** Yes.

14:00:22 14 **Q** And does the data shown on the Exhibit 113 square with your
15 knowledge about the school district? We're not going to go
16 through it in detail, but it reflects the ratio between Hispanic
17 and non-Hispanic staff at the middle school campuses, correct?

14:00:38 18 **A** Yes.

14:00:39 19 **Q** Let's look at Plaintiff's Exhibit 114, please.

14:00:42 20 This is a graphic from Plaintiff's Exhibit 70 with the data
21 the district has published about their district-wide staff, and
22 was it consistent with your exposure to the district that,
23 notwithstanding the statistics we've heard about, the number of
24 Hispanic children, just under 80 percent of the staff was not
25 Hispanic, and only roughly 20.45 percent of the staff was

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1 Hispanic?

14:01:09 2 **A** Yes.

14:01:10 3 **Q** Let's look at one -- Plaintiff's Exhibit 115, please.

14:01:14 4 This is from data the district has produced, Plaintiff's
5 Exhibit 71, reflecting the race and ethnicity of the police
6 department in the district. And we'll hear more about
7 discipline later, but does this square with your impression,
8 from living and working in the district, about the ratio of
9 Hispanic and non-Hispanic police officers, notwithstanding the
10 demographics of the district?

14:01:37 11 **A** Yes.

14:01:38 12 **Q** Okay. Now let's turn to your decision initially to run for
13 the school board, okay?

14:01:45 14 **A** Yes.

14:01:46 15 **Q** You did so twice; is that correct?

14:01:50 16 **A** Yes, I did.

14:01:51 17 *(Phone ringing.)*

14:01:54 18 **MR. ABRAMS:** Sorry, I was hearing --

14:01:56 19 **THE COURT:** So was I.

14:01:57 20 **MR. ABRAMS:** -- a phone ringing. Not me.

14:02:01 21 Okay. Sorry, I was hoping that was going to go away.

14:02:04 22 **BY MR. ABRAMS:**

14:02:04 23 **Q** You ran once in 2015, and you ran again six years later in
24 2021, correct?

14:02:09 25 **A** Yes.

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Q Are the Spring Branch school board elections partisan elections where the party affiliation of the candidates is shown on the ballot, that is, you've got a Republican nominee and a Democratic nominee?

A No. They're nonpartisan.

Q And in some elections, have all of the candidates self-identified as being with the same political party?

A Yes.

Q For example, let's look at Plaintiff's Exhibit 87.

This was election data from the 2022 election. There were races between various candidates. The first one shown was a Ms. Alpe, who was elected, and Mr. Breed. Were both of them self-identified as Republicans?

A Yes.

Q Let's look at the next page, please.

The other race was between and among Mr. Perez, Ms. Mafrige, and Mr. Kaczinski. Did all of them self-identify as Republicans?

A Yes.

Q The next page, please.

This race was among Ms. Bennett, Mr. Slattery, and Ms. Morace. Did all of them self-identify as Republicans?

A Yes.

Q Now, before you decided to run for the school board, had you ever been involved in anybody else's campaign?

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1 A No.

2 Q Well, why did you initially run for the school board in
3 2015?

4 A I ran for the school board because I really felt at the time
5 that -- that the academic -- there was some severe academic
6 issues that were not being addressed on the north side, and the
7 leadership of the campuses were not changing. And so I really
8 felt strongly -- that was one of my big stances, was that if you
9 see that it's been unsuccessful, then maybe we need to have some
10 leadership changes to see if someone might have a better idea
11 about how to address the issues at the campuses. And I felt
12 like there was just so many people that were just -- it was just
13 continuing to go from bad to worse.

14 Q Did you have some ethnically diverse support in both your
15 campaigns, 2015 and 2021?

16 A Yes.

17 Q Did you wind up having more support in 2021, although
18 unsuccessful, than you had in 2015?

19 A Yes.

20 Q Now, in 2015, you ran against an incumbent trustee, Chris
21 Vierra, correct?

22 A Yes.

23 Q And in 2021, you ran for an open seat?

24 A Yes.

25 Q Between 2015 and 2021, did you feel like your experience

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level and qualifications had changed in a way that you felt made you a better candidate in 2021?

A Yes. I had a few more degrees and certifications under my belt, and experiences.

Q Now, you earlier mentioned the variety of involvements you've had with the district in a variety of capacities.

Between 2015 and 2021, did you feel like you had become more familiar with the operations of the district?

A Absolutely.

Q Had you functioned in more roles with the district?

A Yes. I had been on more committees, and through those committee experiences, I definitely learned a lot more about the inner workings of the district.

Q And at the time, did you receive any encouragement or support from existing members of the board to consider running for office?

A Well, when I was in Lead SBISD, which was one of the committees, that was kind of a conversation they had with all of us, talking about that this is kind of you learning more about the district, you could be out there talking to people about what the district is doing, and then, yes, that was also part of them kind of having some conversations about people potentially, you know, choosing to take this further and actually run for school board.

Q Let's see if I can juggle both the microphone and a

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Marks-A-Lot.

I'm not optimistic.

I want to talk with you briefly about the 2015 election, and we're going to compare some aspects of the results to the 2021 election.

MR. ABRAMS: Is this working?

THE COURT: I don't know.

MR. ABRAMS: As long as you can hear me, that's all that I care about.

Richard, let's look at Plaintiff's Exhibit 72, please, page 78.

MR. HENRY: I'm sorry. I'm just coming over here so I can see. I apologize.

MR. ABRAMS: No, no.

Actually, it's the -- page 78 and the image, and it's page 1809 SBISD. Thank you.

BY MR. ABRAMS:

Q Dr. Elizondo, do you recognize, at the bottom of the page, the election results for your first race?

A Yes.

Q That was when you ran against Ms. Vierra?

A Yes.

Q What was your total vote for you in 2015?

A 359.

Q And what was the total vote in the election? What was the

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1 total turnout?

14:07:40 2 **A** 2,098.

14:07:44 3 **Q** Those are the cast votes, correct?

14:07:46 4 **A** Yes.

14:07:57 5 **Q** So at that time, according to the district's rolls, you only
6 received about 17.11 percent; is that right?

14:08:07 7 **A** Yes.

14:08:07 8 **Q** And your opponent got nearly 83 percent?

14:08:12 9 **A** Yes.

14:08:12 10 **Q** Were there any issues discussed during that election that
11 differentiated you, you thought, from your opponent, Ms. Vierra?

14:08:17 12 **A** I think, again, I was talking about leadership and student
13 academics not improving; and then also talked about
14 representation.

14:08:30 15 **Q** What sort of concerns did you then have about student
16 achievement?

14:08:34 17 **A** That we were seeing that so many of the campuses on the
18 north side were not having success in student achievement, and
19 so we were hope- -- we were wondering why that wasn't -- didn't
20 seem to be a priority.

14:08:50 21 **MR. ABRAMS:** Richard, let's look, briefly, at
22 Exhibit 108. It's one we've seen before.

14:08:57 23 **BY MR. ABRAMS:**

14:08:58 24 **Q** Dr. Elizondo, we've discussed this exhibit, so we're not
25 going to talk about it in detail, but are the differences in

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1 student achievement reflected in Exhibit 20- -- pardon me,
2 Exhibit 108, what you were referring to when you were talking
3 about that concern?

1 4 : 0 9 : 1 3 4 **A** Yes.

1 4 : 0 9 : 1 5 5 **Q** There's been a little discussion about the difference
6 between the category for grading student achievement and the
7 category for grading overall scores for schools. What's your
8 understanding of the difference?

1 4 : 0 9 : 2 8 9 **A** In that -- in this particular area that's being shown,
10 campuses and districts were being given a lot more credit for
11 the growth that they showed. So even if the growth still kept
12 them in a low range or an unsuccessful range, they were given
13 more -- a percentage more credit for that. So their overall
14 rating may average to be higher.

1 4 : 0 9 : 5 1 15 And so here we're looking specifically at student
16 achievement, which is the bottom line: How'd the kids perform
17 on the assessment?

1 4 : 1 0 : 0 0 18 **Q** And this was, then and now, one of your concerns as a
19 candidate?

1 4 : 1 0 : 0 4 20 **A** Yes.

1 4 : 1 0 : 0 4 21 **Q** Is that correct?

1 4 : 1 0 : 0 5 22 **A** Yes.

1 4 : 1 0 : 0 6 23 **Q** All right. Now let's look at the results of the 2021
24 election.

1 4 : 1 0 : 0 9 25 **MR. ABRAMS:** Richard, if we could look at Plaintiff's

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Exhibit 72, SBISD 1842.

And if you could blow up the results at the bottom.

BY MR. ABRAMS:

Q In 2021, you ran against Mr. Earnest, who was the successful candidate, correct?

A Yes.

Q And in 2021, what was your vote total as the unsuccessful candidate?

A 3,484.

Q Would you tell me that again, please?

A 3,484.

Q And what was the total vote cast in the 2021 election?

A 8,791.

Q So your vote total in 2021 was greater than the total votes cast in 2015, but you still lost?

A Yes.

Q Because the turnout went up dramatically?

A Yes.

Q What issues did you emphasize in your 2021 campaign?

A Again, about -- the performance of the campuses on the north side was one of the big issues; also, what I could bring to the board as far as my perspectives and my diversity, my experience. My son is autistic, and so I have vast experience with special education.

And so I thought there were quite a few things that I could

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offer, help with, you know, supporting bilingual students and bringing all of those different facets and experiences I had under my belt, and I hoped I could offer that help to the district.

Q Let's look briefly at some of your campaign literature from your 2021 campaign.

MR. ABRAMS: Richard, may we see Plaintiff's Exhibit 62, page 1, please?

BY MR. ABRAMS:

Q We're not going to spend a lot of detail on any of these, but Exhibit 62, page 1, sort of shows one of your push cards; is that right?

A Yes.

Q Brief capsule summary of what you were presenting to the voting public as reasons to consider you as a candidate?

A Yes.

Q Let's look at page 3 of the PDF, please.

There you again have literature describing, in capsule summary, some of your characteristics that you are presenting to the voting public: Your education; your community involvement; your services as a parent, educator, advocate, correct?

A Yes.

Q Let's look at page 4, please.

You presented to the public your professional experience as an educator, correct?

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1 A Yes.

2 Q Now, let's look at page 5.

3 This was a narrative. Do you recall what you prepared this
4 in connection with?

5 A I believe these were questions that were given from -- I
6 think it was a reporter.

7 Q And the judge can read for himself what was said, but this
8 was basically another capsule summary of what your credentials
9 were, your goals were, and your vision for the district,
10 correct?

11 A Yes.

12 Q Let's turn to page 11 of Exhibit 62, please.

13 Eleven, 12, and 13 of Exhibit 62 reflect a variety of the
14 community supporters you had?

15 A Yes.

16 Q Did you have support from elected officials?

17 A I did.

18 Q Did you have support from present and former trustees?

19 A Yes.

20 Q Did you have support from individuals like me?

21 A Yes, I did.

22 Q Did we even know each other then, however?

23 A No, we didn't.

24 Q And you had support from Kathy Goss, whose name is also in
25 this?

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A Yes, I did.

Q I want to now talk with you about the role of early day voting and the early day voting locations for a moment.

MR. ABRAMS: Richard, let's look again at Plaintiff's Exhibit 72, first page 89 -- 1809.

BY MR. ABRAMS:

Q We looked at this earlier.

MR. ABRAMS: If you can blow up the bottom of the page for us, please, Richard?

Well, actually, let's go back.

BY MR. ABRAMS:

Q The first column is the early voting column?

A Yes.

Q And how many votes were cast as early votes in the 2015 election?

A 996.

Q I'm going to call that EV, early votes.

How many total votes were cast?

A 990- -- oh, total?

Q Yes.

That was the 2098?

A Yes. 2,098, yes.

Q So in your 2015 election, it appears that, oh, roughly half the vote was early vote, and half the vote was Election Day, correct?

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1 4:15:29 1 A Yes.

1 4:15:30 2 Q I'm not going to do the math. I'm not going to ask you to
3 do the math.

1 4:15:34 4 Now let's look at the 2021 election and see what the early
5 vote totals were there. That's Plaintiff's Exhibit 72,
6 page 18 -- SBISD 1842.

1 4:15:49 7 What was the early vote total for the 2021 election?

1 4:15:56 8 A 5,631.

1 4:16:05 9 Q And what was the total vote in 2021?

1 4:16:10 10 A 8,791.

1 4:16:20 11 Q Here I do -- I will do the math.

1 4:16:22 12 It's nearly 64 -- a little more than 64 percent of the
13 vote, in 2021, was early voting; is that right?

1 4:16:29 14 A Sounds right.

1 4:16:33 15 Q Is it consistent with your experience that the role of early
16 voting changed the election process dramatically between 2015,
17 when you first ran, and 2021, when you ran for the second time?

1 4:16:47 18 A Yes. A lot more people had voted in early voting.

1 4:16:51 19 Q And we'll look at some statistics later with respect to the
20 early voting, but it was a dominant factor in your election, was
21 it not?

1 4:16:59 22 A Yes.

1 4:17:01 23 Q Let's look at Plaintiff's Exhibit 110, which we've seen
24 before.

1 4:17:08 25 As of the time of your election in 2021, does Exhibit 110

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1 reflect what the early voting locations were?

14:17:15 2 **A** Yes.

14:17:17 3 **Q** Does it reflect the proximity of those locations to where
4 most of the Hispanic or Latino voters lived?

14:17:24 5 **A** Yes.

14:17:25 6 **Q** And does it reflect the proximity of those locations in
7 relation to the areas of the district where most of the white
8 voters lived?

14:17:31 9 **A** Yes.

14:17:34 10 **Q** From your experience living in Spring Branch and in the
11 northern portion of Spring Branch, are you familiar with the
12 transportation challenges that you heard Ricardo Barnes discuss
13 earlier?

14:17:47 14 **A** Yes.

14:17:48 15 **Q** Are there limited abilities to move around using public
16 transportation?

14:17:53 17 **A** Yes.

14:17:54 18 **Q** Are there other factors that you know, from a being resident
19 in the community, that bear on the ability of the Latino
20 community to avail themselves of early voting or, for that
21 matter, Election Day voting?

14:18:09 22 **A** Definitely was -- I felt like I know that we're open on the
23 one day, Saturday, that's not a typical Monday-through-Friday
24 day. It was only open until noon.

14:18:22 25 **Q** Let's confirm that.

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MR. ABRAMS: Can we see Plaintiff's Exhibit 12,

please, Richard?

BY MR. ABRAMS:

Q Exhibit 12 is the district's notice of the May 2021 election you and I have been discussing, and it identifies the four early voting sites that we've had mapped, and it also shows the hours for when there was Saturday early voting. And only three of the locations had early voting on Saturday, and as you indicated, it was not even a full day, correct?

A Correct.

Q What impact, if any, do you think that has on the ability of your community members to utilize that as a basis for voting?

A Because of the work schedules.

Q The Court's already heard about the change in the district's decision to conduct Election Day voting at the 25 elementary schools and then reduce it to the seven middle schools. How, in your judgment, did that impact the ability of the Latino community to avail themselves of the voting process?

A It took the voting sites further away.

Q Did you hear and do you agree with the testimony of Mr. Barnes with regard to access issues that that caused?

A Yes.

Q Are you aware of any other factors besides proximity that, in your judgment, based upon your experience as a candidate, affected the turnout of voters on May election days on the south

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side of the district differently than on the north side?

A Well, I know that the election date was -- coincided with the elections that were happening in the villages.

Q Is it the case that by conducting the election in May instead of November, it coincided with municipal elections in the Memorial Villages, but there was no corresponding broader election being conducted in the rest of the district?

A Yes.

Q And what effect do you contend that has had on voter turnout?

A Well, typically in school board elections, the voter turnout tends to be low, and I think that when you're coming out to vote for something that seems to hit you -- or you care more about, like the mayoral elections -- people have a tendency to come in to vote for the mayoral election, and while they're there, they'll go ahead and vote, and I think that kind of doing that year after year, you're kind of ingraining that in that community to vote for school boards.

Q I want to now turn to the topic of the district's noncompliance with the state law that involves registration of 18-year-old high school students. Are you familiar with that topic?

A Yes.

Q Are you aware that the Texas Education Code -- Election Code, pardon me, requires each high school principal to

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1 distribute voter registration applications and information every
2 semester to every 18-year-old student in the high schools?

14:21:28 3 **A** Yes.

14:21:29 4 **Q** During the course of the lawsuit, did you become aware that
5 the district has admitted it did not comply with that law?

14:21:35 6 **A** Yes.

14:21:39 7 **Q** Now let's turn to some of the campaign literature in 2021
8 that you used that discusses what you were promoting as key
9 issues.

14:21:49 10 **MR. ABRAMS:** Plaintiff's Exhibit 62, page 23, please.

14:22:03 11 There we go. Thank you.

14:22:05 12 **BY MR. ABRAMS:**

14:22:05 13 **Q** At the top of the page, can you tell us with that is?

14:22:09 14 **A** That was an infographic that we put out talking about
15 language barriers, and that it -- we felt like we could not
16 reach the goals of T-2-4 if we were not going to be addressing
17 the language barriers that were faced by ELL and ESL students.

14:22:26 18 **Q** And was that one of your campaign platform ideas?

14:22:28 19 **A** Yes.

14:22:29 20 **Q** And one of your stated concerns as a candidate?

14:22:33 21 **A** Yes.

14:22:33 22 **MR. ABRAMS:** Let's look at the next page, please.

14:22:38 23 I'm sorry, let's go back.

14:22:39 24 **BY MR. ABRAMS:**

14:22:39 25 **Q** You had language barriers.

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Then let's look at Plaintiff's Exhibit 62, page 14.

Is this another, in effect, push card or distribution you had emphasizing the need for attention to dyslexia in the district for the reasons you've outlined?

A Yes.

Q Did your campaign literature attempt to compare and contrast your background and experience with your opponent's?

A Yes, it did.

Q Let's look at Plaintiff's Exhibit 82.

What's Exhibit 82?

A Here, we took a list of -- made a list of the different things that I had accomplished and the things -- in comparison to my opponent.

Q To the best of your knowledge, is the information reflected in Exhibit 82 factually accurate about the comparison of your experience in connection with the school board and Mr. Earnest's experience?

A Yes.

Q And the reference to Virginia is you, right?

A Yes.

Q And the reference to Chris is to Mr. Earnest, the gentleman who was elected?

A Yes.

Q During your 2021 campaign, did you experience what you considered to be overt or implied racial and ethnic appeals?

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1 A Yes.

2 Q What are you referring to?

3 A I'm referring to comments that were made, information that
4 was coming back to me, places where I wasn't wanted, and it was
5 all, you know -- the big controversy was that I was a Latina.

6 Q Did you personally experience any incidents at the middle
7 schools with regard to seeing opponents distributing literature?

8 A Yes, and I think this -- this kind of ties directly into why
9 perspective is so -- such an important thing. I had some
10 members of my campaign that were handing out information at
11 Memorial Middle School and at Spring Branch Middle School, and
12 when I got there at -- first at Memorial, they hadn't noticed
13 the pattern that I noticed, which was that the -- my opponent's
14 campaign staff were handing out information about him to only
15 the white voters.

16 And then when I went to Spring Branch Middle School, I
17 encountered the same thing. They were only handing out cards to
18 white voters, and it was something that my campaign that --
19 staff that were at Memorial Middle were all white, and they
20 didn't notice it. And I said, "Okay, hang on. Wait, watch."
21 And we watched, and 11, 12 times passed by, and then I said --
22 and -- but that's perspective.

23 That wasn't something they would have noticed because
24 that's probably something they've never had to worry about.

25 Q Did you also experience comments at various meet-and-greets

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1 that were conducted during the campaign? And let me clarify:
2 What's a meet-and-greet in the parlance of the Spring Branch
3 board election?

1 4 : 2 6 : 1 5 4 **A** A meet-and-greet is an opportunity for a candidate to get
5 out and meet community members and kind of talk about their
6 platform and answer questions from the community.

1 4 : 2 6 : 2 4 7 **Q** And did you experience any incidents that led you to believe
8 that there was some racial or ethnic dimension to this campaign?

1 4 : 2 6 : 3 1 9 **A** Yes. Questions I was asked, accusations that were being
10 made to me about what my plans were and what I was trying to --
11 to do as a Latino community and how I wanted to take things away
12 from the white students because I was going to try to give all
13 the resources to the Latino students.

1 4 : 2 6 : 5 6 14 And so it was definitely a lot about me taking things away
15 or denying access instead of let's, like -- I really was trying
16 to speak for equity and being equitable, and just because I help
17 a student who's Latino doesn't mean I need to take anything away
18 from a white student to do that. And I think that they --
19 that's what I -- those were the comments that I was being
20 asked -- questions I was being asked and comments that I was
21 being told.

1 4 : 2 7 : 2 6 22 **Q** Let's now look at Plaintiff's Exhibit 63, page 2.

1 4 : 2 7 : 3 2 23 There's a note at the bottom of the page, and this is
24 dated -- can we tell from the top of this? Can you tell from
25 the context when this was dated, Virginia?

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1 It says, "Tomorrow's Election Day." So this is before the
2 election.

1 4 : 2 7 : 4 9 3 **A** Yes, it was.

1 4 : 2 7 : 5 0 4 **Q** All right. Let's go down to the bottom note. What was
5 this?

1 4 : 2 7 : 5 4 6 **A** I -- I sent this out this way, and I also did a video the
7 day before this one. So what it was, is that things were
8 getting very contentious, and I was hearing back a lot that my
9 south side supporters were being -- being harassed. People were
10 knocking -- going up and knocking on the door and asking them,
11 "How could you have that sign in your yard? How could you be
12 supporting her?"

1 4 : 2 8 : 2 4 13 People were getting -- they didn't want their kids playing
14 with the other kids anymore. Other people were being told they
15 couldn't be in a club anymore. They couldn't participate in an
16 organization or they couldn't attend an event because they had
17 endorsed me or had my sign in their yard.

1 4 : 2 8 : 4 0 18 So to me it just felt very aggressive and very angry, and
19 so I really was hoping that this message might, hopefully, calm
20 some nerves and get back to the point of what we're trying to do
21 and how we're trying to be collaborative, and we're trying to
22 work together, and we're all committed to students and that
23 should be our focus.

1 4 : 2 9 : 0 2 24 **Q** We earlier looked at Plaintiff's Exhibit 81.

1 4 : 2 9 : 0 6 25 **MR. ABRAMS:** May we see that, Richard?

Mr. Abrams Direct of Virginia Elizondo**BY MR. ABRAMS:**

Q This was an anonymous note sent to one of your supporters, Kathy Goss.

Is this the type of example you're referring to? You were getting reports of communications to your supporters that were not pleasant?

A Yes.

Q And is this what you were trying to calm the waters with and lower the temperature?

A I was.

Q Did you retaliate; send out comparable messages?

A Never. I told -- I talked to my -- anyone who was supporting me, and I let them know flat out that I was going to run this campaign with integrity, and I was going to be able to walk away from this with my head held up high knowing that I did not revert to any negative tactics. We were going to win -- I had my own principles, and I'm a role model; I'm a mother.

I want people to know my character, and I did not want to have anything derogatory or negative about that, and I was not about to display that. And -- and it's definitely -- I want -- I was taking the high road.

Q Let's look at Plaintiff's Exhibit 62, page 19, please.

MR. ABRAMS: Nineteen -- page 19. I think it's 19 of the image, please. "Duties of the School Board."

BY MR. ABRAMS:

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1 14:30:26 Q Why were you publicizing information about the duties of the
2 school board? Wasn't that something that's common knowledge in
3 the district?

1 14:30:36 A Well, actually, no. We were getting a lot of people that
5 would ask questions, especially as they heard about the race and
6 they got more involved, wanting to know more about what does a
7 school board actually do. And so we were trying to put out some
8 info to let people know. And then they were hearing, you know,
9 things that were not true, and so we were hoping to clarify.

1 14:30:59 Q Were there issues promoted by your opponent that, in your
11 judgment, had nothing to do with the actual work of the school
12 board that you were running for?

1 14:31:11 A Yes.

1 14:31:11 Q Can you give the judge examples of that?

1 14:31:14 A Critical race theory. Critical race theory does not exist
16 in pre-K through 12, and this terminology got used as an
17 umbrella term in order to basically put anything underneath it
18 that was attributed to race in anything.

1 14:31:31 Q Were you ever promoting the teaching of, quote, critical
20 race theory, close quote, in the schools?

1 14:31:39 A I didn't even know what it was. I later learned that
22 lawyers learn about it in graduate school.

1 14:31:46 Q What other issues did you think had raised the temperature
24 in the election that had nothing to do, in your judgment, with
25 legitimate issues in the race?

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1 A Unions.

2 Q How did unions play a role? What was your understanding
3 about the role that unions can play in public schools?

4 A Well, Texas is a nonunion state, and so the roles that a
5 teacher union has is -- this is what they offer you, because I
6 was in a teacher union when I was a teacher: They offer you
7 guidance. If you're having any issues at your campus, they
8 offer to be a mediator. They also can offer you some legal
9 support in case you get sued because the district will not cover
10 you as a teacher if you get sued. They also had some discount
11 programs.

12 Q Under Texas law, as you understand it as an educator with --
13 with a doctorate, can unions organize the teachers and engage in
14 collective bargaining in Texas?

15 A No.

16 Q Did you understand why, quote, keeping unions out of the
17 schools was a topic bandied about during your race?

18 A No. It didn't make any sense.

19 MR. ABRAMS: Let's look at Exhibit 62, page 22 of the
20 image, please.

21 Let's look at the top myth.

22 BY MR. ABRAMS:

23 Q Why did you put out this information about a myth being
24 there being too much political influence on the school board?

25 A Because the school board was -- is a nonpartisan race, and

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1 we've seen boards in the past working, you know,
2 collaboratively, and you see the work they're doing, and they
3 never introduce it as a partisan work or advertise it in that
4 manner. And so this was something that, you know -- I would not
5 seek the endorsement of the Democratic Party, and I wouldn't
6 have accepted it if they had offered it because this is a
7 nonpartisan race.

1 4 : 3 3 : 5 0 8 Q Your last bullet point indicates you were endorsed by people
9 from all parties. Is that factually accurate?

1 4 : 3 3 : 5 6 10 A Very much. Elected officials that were Republicans and
11 Democrats.

1 4 : 3 4 : 0 1 12 Q Let's now look at the other myth card on page -- on the same
13 page at the bottom.

1 4 : 3 4 : 0 9 14 "Myth: Board members have the authority to impact
15 Curriculum and Mandates enforced by the School District," what
16 was that about?

1 4 : 3 4 : 1 6 17 A Well, at the time, since the election, the State of Texas,
18 in their legislation, has given school boards some free rein in
19 some areas they didn't have at the time that I wrote this, and
20 so the idea that -- I wanted people to understand that TEA puts
21 together the curriculum package that school districts are
22 required to teach. You can add to it, but you cannot take away
23 from it at that time.

1 4 : 3 4 : 4 7 24 Q We've already addressed this, so we're not going to devote
25 much attention to it, but are you aware that, due to the

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1 budgetary pressures, the district announced it was going to cut
2 \$35 million out of its budget?

1 4 : 3 4 : 5 9 3 **A** Yes.

1 4 : 3 4 : 5 9 4 **Q** And among those cuts were multiple school closures, and
5 we've talked about them, so we're not going to discuss it again.

1 4 : 3 5 : 0 7 6 Are those budgetary decisions examples of the sort of
7 actions by the school board that you contend should involve the
8 voice of the Latino residents in the northern part of the
9 district rather than trustees, all of whose children were zoned
10 to other schools?

1 4 : 3 5 : 2 3 11 **A** Absolutely.

1 4 : 3 5 : 2 4 12 **Q** Why?

1 4 : 3 5 : 2 5 13 **A** Because I think the perspective and the discussions needed
14 to happen to understand the implications and the ripple effects
15 that these decisions were going to make, and so I want to
16 believe that those things were unknown, and it wouldn't have
17 been an intentional thing to try to hurt the Latino community.

1 4 : 3 5 : 4 6 18 But again, when you don't have someone at the seat --
19 sitting at the table that can bring things from their
20 perspective that you may not have considered, those pieces
21 needed to be there in order to have those conversations.

1 4 : 3 5 : 5 9 22 **Q** Is it your position that you were not elected to the school
23 board, in part, due to the large -- at-large system for electing
24 trustees?

1 4 : 3 6 : 0 8 25 **A** Absolutely.

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Q Let's look at Plaintiff's Exhibit 127, please, which depicts the results of Dr. Stein's election analysis. This has not yet been displayed.

This is derived from the source data in Plaintiff's Exhibit 2, Dr. Stein's supplemental report, and it compares your share and Mr. Earnest's share of the white and Hispanic vote. On the left-hand side, do you see that it depicts what share of the white vote Mr. Earnest got and what share you got?

A Yes.

Q And you had meaningful white support, correct?

A Yes.

Q But you were still soundly defeated, correct?

A Yes.

Q And the right side of Exhibit 127 graphically depicts, in the pie chart, what share of the Hispanic vote you secured, and it was substantially larger than Mr. Earnest's share, correct?

A Yes.

Q You ran on different issues than Mr. Earnest, right?

A Yes.

Q And Mr. Earnest's supporters apparently preferred his issues, and the Hispanic supporters you had preferred your issues?

A Yes.

Q You were clearly the preferred Hispanic candidate, correct?

A Yes, I was.

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1 Q Now, you're aware that, under the claims you've brought, you
2 have the obligation to show that the members of the Latino
3 community in Spring Branch are large enough and compact enough
4 to make up a majority of voters in at least one district, right?

5 A Yes.

6 Q Based on your personal experience as a resident, do you
7 contend that that is the case at least with respect to
8 District 1?

9 A Yes.

10 Q Are you aware that, during the lawsuit, the district's
11 corporate representative admitted that the geographic
12 concentration of Hispanics in the district is large enough to be
13 a majority of the voting age population in one or more districts
14 if there's a seven-member plan?

15 MR. HENRY: I object. The corporate representative
16 will be here to testify about that, and I think it
17 mischaracterizes that testimony. I think the corporate
18 representative can address that when she testifies.

19 THE COURT: Okay. The objection's overruled.

20 MR. ABRAMS: It's an admission. Thank you.

21 BY MR. ABRAMS:

22 Q Are you aware that that is the testimony from the corporate
23 representative?

24 A Yes.

25 Q Are you aware that, in this lawsuit, the district's

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1 corporate representative has admitted that at least three
2 single-member districts could be drawn in which the Hispanic
3 voting age population could constitute a majority?

1 4 : 3 8 : 5 0 4 **A** Yes.

1 4 : 3 8 : 5 1 5 **Q** Now, are you also, in addition to your own experience and
6 the admissions of the district, relying upon the analyses
7 prepared by Dr. Robert Stein? And those have been marked in
8 evidence, and we'll hear from Dr. Stein later.

1 4 : 3 9 : 0 3 9 **A** Yes.

1 4 : 3 9 : 1 0 10 **Q** Let's look again at Exhibit 24 and the proposed illustrative
11 district.

1 4 : 3 9 : 2 1 12 As a resident, parent, voter, community volunteer, former
13 candidate for office, school board trustee, are you familiar
14 with the conditions in District 1 that you've heard testified
15 about?

1 4 : 3 9 : 3 4 16 **A** Yes.

1 4 : 3 9 : 3 5 17 **Q** Do you believe that there are the common characteristics
18 that you've heard the witnesses testify about?

1 4 : 3 9 : 3 8 19 **A** Yes.

1 4 : 3 9 : 4 1 20 **Q** Are you aware that, under the Voting Rights Act, you've got
21 the burden to show that polarized voting exists in the school
22 board elections, meaning that the Latino group's politically
23 cohesive, and the white majority votes enough as a bloc to
24 enable it, absent special circumstances, usually to defeat the
25 Latino or Hispanic candidate -- preferred candidate?

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MR. HENRY: Your Honor, again I object. I think she's giving expert testimony or just reading an expert's report. The experts will testify --

THE COURT: He's just asking her if she's aware of that.

You may answer the question.

A Yes.

BY MR. ABRAMS:

Q Has that been your personal experience as a candidate for office twice in Spring Branch?

A Yes.

Q Are you also relying upon the analyses performed by Dr. Stein that we'll hear about later regarding polarized voting in Spring Branch?

A Yes.

Q Do you believe that you or other Hispanic-preferred candidates could win election in proposed District 1 if the plan were adopted?

A Yes.

Q Do you believe that the district would benefit from the adoption of a single-member district plan for electing its school trustees?

A Absolutely.

Q Why?

A Because this would guarantee that they'd have the diversity

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on the board that they so lack. They would have diversity of perspective, they would get to understand the Spring Branch community as a whole instead of just part, and everyone would be bringing some valuable information from varying backgrounds and differences so that you can have really robust discussions about all the things that are impacting our students.

Q Thank you, Dr. Elizondo.

MR. ABRAMS: I pass the witness.

THE COURT: All right. We'll take a 10-minute recess.

(Recess taken from 2:41 p.m. to 2:51 p.m.)

THE COURT: Be seated, please.

You may proceed with the cross-examination of Dr. Elizondo.

MR. HENRY: Yes, Your Honor.

CROSS-EXAMINATION

BY MR. HENRY:

Q Dr. Elizondo, when you testified earlier on direct, you testified that you had negative experiences with the schools that you went to growing up; is that correct?

A Yes, negative academic experience.

Q I'm sorry?

A Negative academic experiences, yes.

Q And which school district did you attend?

A Houston ISD.

Q So those negative experiences that you described were not

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1 negative experiences in Spring Branch ISD, were they?

14:52:02 2 **A** Not my personal ones, no.

14:52:05 3 **Q** You worked for Spring Branch ISD from about 2000- -- I'm not
4 going to hold you to the exact years, but 2004-ish to 2013,
5 correct?

14:52:15 6 **A** Yes.

14:52:16 7 **Q** And you worked as a teacher and an English and other spoken
8 language consultant, right?

14:52:21 9 **A** Consulting teacher, yes. It was still a teaching position,
10 but you were helping other teachers.

14:52:27 11 **Q** Okay. And how did you help other teachers with the English
12 and other spoken languages position?

14:52:32 13 **A** You would help them to set up bilingual centers. You would
14 help to give advice and information about new students that they
15 were receiving and in trying to get the complete back stories
16 from parents of the academic history of kids as well.

14:52:48 17 **Q** And did this program service -- I take it, it served
18 students that had English as their second language; is that
19 right?

14:52:55 20 **A** Yes.

14:52:56 21 **Q** And is that mostly, for Spring Branch ISD, the Hispanic
22 student community?

14:53:01 23 **A** I -- at my campus, it was.

14:53:05 24 **Q** Your son attended Buffalo Creek Elementary School, Pine
25 Shadows Elementary and, also, Westchester Academy, correct?

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1 A Yes. And Tiger Trail when he was little.

2 Q Okay. Westchester Academy is a school south of I-10 in the
3 Memorial area, correct?

4 A Yes. It's the only school in the district offering the
5 International Baccalaureate program.

6 Q And did he attend that school for the purpose of
7 participating in International Baccalaureate?

8 A Yes. I definitely wanted him with that type of programming.
9 I was experienced -- when I was the assistant principal at
10 Wharton Dual Language Academy in HISD, we were also
11 International Baccalaureate, and I thought it was a really
12 wonderful program.

13 Q And that program is open to students all across the
14 district, correct?

15 A Yes. It's based on a lottery. So we got lucky enough to be
16 chosen to attend.

17 Q When you testified about your involvement in the district,
18 you testified that -- or -- and it was on your résumé that you
19 participated in something called Lead SBISD.

20 Can you tell us what Lead SBISD is?

21 A It was a program. I was in the inaugural year, the first
22 year of it, and it was my understanding that this was a program
23 where the district was trying to find key people and give us
24 information a little bit about the inner workings of the
25 district, like, you know, different departments, what they did

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1 in hopes that we could get out into our communities and kind of
2 share some of that information.

1 4 : 5 4 : 3 5 3 Q And you were specifically invited by Linda Buchanan [sic],
4 who worked for SBISD, to be on the Lead SBISD program?

1 4 : 5 4 : 4 4 5 A Yes. I believe she sent the e-mail.

1 4 : 5 4 : 4 7 6 Q Is it correct that you also served on the district's bond
7 committee in 2007?

1 4 : 5 4 : 5 2 8 A Yes. I was very excited to do that. The year before, I had
9 served on the Long-Range Planning Facility Committee. That was
10 my first experience to be in a committee that was district
11 based. I was so excited because I was a teacher at Hollibrook
12 at the time, and our school was falling apart on top of us.

1 4 : 5 5 : 1 0 13 It was in very bad condition. Every time it rained,
14 teachers knew which trash can to use to put under the water.
15 The tiles were falling on our heads. We had rat problems. We
16 couldn't leave the kids' backpacks underneath desks because the
17 rats would get in them; roaches.

1 4 : 5 5 : 2 6 18 And when I read the description of the long-range planning
19 committee, I got very excited because I said, "This is finally
20 an opportunity," and that's when I first learned how important
21 it is to have representation, to have a perspective like that to
22 share our story at Hollibrook with that committee, and then I
23 continued on to the bond committee.

1 4 : 5 5 : 4 3 24 Q I'm sorry. And as part of being on those committees, was
25 Hollibrook one of the schools that received upgrades as a result

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1 of that bond?

14:55:51 2 **A** Yes. Our maintenance operations had designated it as a
3 complete rebuild, and we also hosted one of the bond committee
4 meetings at our campus so we could show everyone, and I was able
5 to tour people around the facility.

14:56:04 6 **Q** You're a registered voter in SBISD, correct?

14:56:06 7 **A** Yes.

14:56:07 8 **Q** Have you ever voted in a party primary election before?

14:56:12 9 **A** I used to. I voted a few times for some friends who were
10 going to be running in their party, but I've stopped. I now
11 list myself as an independent and have for a few years.

14:56:23 12 **Q** Okay. Is it correct that you've never voted in the
13 Republican primary, though?

14:56:26 14 **A** No.

14:56:27 15 **Q** That's not correct, or no, you haven't?

14:56:29 16 **A** Oh, sorry. No -- no, I didn't have -- I didn't vote in a
17 Republican primary.

14:56:34 18 **Q** Okay. So it's correct, then, that the only party primary
19 you've ever voted in is the Democratic primary?

14:56:39 20 **A** Yes.

14:56:41 21 **Q** And 2015 was when you ran for SBISD trustee for the first
22 time, correct?

14:56:48 23 **A** Yes.

14:56:49 24 **Q** Would you agree that you had an ethnically diverse group of
25 supporters in 2015?

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1 A Yes.

2 Q Is it correct that in 2015, you sent no mailers out to
3 potential voters?

4 A Yes.

5 Q But you did engage in phone banking in 2015, correct?

6 A Yes. Phone banking and, also, a forum.

7 Q Okay. Can you explain what phone banking is?

8 A That's when different people will call potential voters and
9 kind of talk to them, let them know where the voting location
10 is, let them know the day of voting, and then tell them a little
11 bit -- something about their preferred candidate.

12 Q And the group that ran the phone banking operation for you
13 in 2015 was the Spring Branch American Federation of Teachers,
14 or AFT, correct?

15 A Yes.

16 Q And you had the support of the Spring Branch AFT in 2015,
17 correct?

18 A Yes, I did.

19 Q Okay. Is it correct that the Spring Branch AFT is now part
20 of the larger Houston AFT?

21 A Yes.

22 Q Can you explain what an AFT is?

23 A It's like the union I described earlier where you have
24 someone who can work as a mediator for you if you're having
25 issues at work; they can give you insights; they can also give

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1 you legal representation; and they also offer some discount
2 programs.

14:58:11 3 Q Is it correct, also, that in 2015, you were endorsed by the
4 AFL-CIO?

14:58:16 5 A Yes.

14:58:17 6 Q And the AFL-CIO is a union group as well, correct?

14:58:20 7 A Yes, it is.

14:58:22 8 Q I want to direct your attention to Defendants' Exhibit 20,
9 which is a chart showing the election results of the 2015
10 election.

14:58:37 11 How many votes total did you receive in that election, and
12 how many were for your opponent?

14:58:46 13 It's hard to see. I'll read it as best I can, but --

14:58:49 14 A Thank you.

14:58:50 15 Q -- does it look like you received about 359 total votes, and
16 your opponent received about 1,739, I think, is the number?

14:59:05 17 A I'm sorry. I'm still trying to gauge it on this document.

14:59:10 18 **THE WITNESS:** Thank you. Thank you.

14:59:11 19 A Yes.

14:59:11 20 **BY MR. HENRY:**

14:59:12 21 Q Okay. Is it correct that --

14:59:13 22 **MR. HENRY:** And we'll need the full to see this.

14:59:17 23 **BY MR. HENRY:**

14:59:17 24 Q You do not receive the most votes in any middle school
25 precinct in 2015, correct?

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On the left we have the precincts listed by number, 41, 42 through 47, and then a joint --

A Yes, that's accurate.

Q So according to this chart, just to make sure I got your testimony correct, you did not win a single precinct north or south of I-10?

A No, I did not win a precinct.

Q In the 2021 election, you ran against current trustee Chris Earnest, correct?

A Yes.

Q Is it correct that during the 2021 campaign for trustee, the AFL-CIO union group sent out mailers to promote your campaign?

A Yes.

Q Is it also correct that the AFL-CIO union group made phone bank calls on your behalf during the 2021 campaign to promote your candidacy?

A Yes. I believe they called their members.

Q Did you get e-mail correspondence from potential voters during your 2021 campaign?

A I did.

Q If we could look at Defendants' Exhibit 14.

Do you recognize Virginia4SBISD@gmail.com as the e-mail address that you used for your campaign?

A Yes, I do.

Q And this is an e-mail to you during the campaign from a

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1 person named Terri Dobitz.

15:01:06 2 Do you know who Terri Dobitz is?

15:01:10 3 **A** No.

15:01:10 4 **Q** And in the e-mail, Terri Dobitz expresses -- or poses four
5 questions -- really, five questions to you.

15:01:19 6 First, "Will you fight to keep critical race theory
7 instruction out of the schools?"

15:01:23 8 Second, "Will you fight to keep gender
9 discussions/'education' out of the schools?"

15:01:29 10 Third, "Do you support the 1776 project or the 1619
11 project?"

15:01:36 12 Fourth, "Along with #3, will you fight to keep revisionist
13 history out of our schools?"

15:01:41 14 And, finally, "Do you support Common Core?"

15:01:44 15 Did I read that part of the e-mail correctly?

15:01:46 16 **A** Yes.

15:01:49 17 **Q** Is it correct that -- I should say: Do you recall
18 responding to this e-mail from Terri Dobitz?

15:01:55 19 **A** No.

15:01:56 20 **Q** Is it correct that at some point during your campaign, you
21 shifted the duty of responding to voter e-mails to your team to
22 handle those responses?

15:02:04 23 **A** Yes.

15:02:05 24 **Q** Do you know if anyone on your team ever responded to this
25 particular e-mail from Terri Dobitz?

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1 A No.

2 Q The first issue raised in this e-mail by this person says,
3 "Will you fight to keep critical race theory instruction out of
4 the schools?"

5 Is it correct that when you saw this word "critical race
6 theory" being used in your campaign, at that time you didn't
7 know what it meant?

8 A True.

9 Q But you would agree that, in 2021, critical race theory
10 instruction and that curriculum became a hot-button issue during
11 your campaign, right?

12 A People kept using that terminology, yes, and mistaking it to
13 be a curriculum.

14 Q Is it correct that you did not do anything to communicate to
15 the community your position on CRT during the 2021 campaign?

16 A I noticed it towards the ends of the campaign, but, no, I
17 didn't put out anything -- information about it because, again,
18 I didn't know what it was, and I wanted to be able to research
19 and actually find out more about what it actually was.

20 Q The third issue says, "Do you support the 1776 project or
21 the 1619 project?"

22 At the time you received this e-mail, did you know what the
23 1776 project was?

24 A No, I did not. I later tried to find out what it was.

25 Q You never tried to find out?

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1 A No, I later found out -- tried to find out what it was.

2 Q Okay. And what did you find out?

3 A That it was kind of like writing history. It was based in
4 New York, and it was, like, writing history or showing history
5 from the perspective of slavery or something, and how that,
6 like, systemically went in there. I'm not an expert, so I don't
7 know -- I haven't read the book. So --

8 Q And that's the 1619 project?

9 A That's 1619.

10 Q And do you understand the 1776 project to be, essentially,
11 the counter to the 1619 project?

12 A No. Sorry.

13 Q If we could look at Defendants' Exhibit 15, which is an
14 e-mail from a person named Carissa Pool or, possibly, Carissa
15 Parish. Do you know who that person is?

16 A No.

17 Q The e-mail says: (As read) Hi, Virginia. I'm a mom of an
18 incoming kinder student in SBISD, and I wanted to get your
19 stance on everything for which you are running. What are your
20 specific goals? What are your plans? Where can I find all the
21 details so I can compare and decide who best fits with our
22 family's morals and values? Interested in all the trending
23 topics, in addition to everything small and large scale. Thank
24 you for your time.

Is it correct that by April 21st, before the election, you

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1 had turned that responsibility for responding to voter e-mails
2 like this over to your team?

15:04:49 3 **A** Yes.

15:04:50 4 **Q** Is it correct that you don't know who from your campaign, if
5 anybody, responded to this e-mail?

15:04:56 6 **A** Yes, I don't know.

15:04:57 7 **Q** Is it correct that when people from your campaign would
8 respond to these kinds of e-mails, that they would use their own
9 e-mail addresses to respond and wouldn't copy you?

15:05:07 10 **A** Yes.

15:05:11 11 **Q** Wouldn't you agree that it's important to ensure that
12 potential voters in an election are responded to in order to
13 know whether they support your campaign?

15:05:21 14 **A** I'm sorry. Could you repeat that?

15:05:23 15 **Q** Sure.

15:05:24 16 When a vote- -- potential voter sends you an e-mail,
17 wouldn't you agree that it's an important step in a campaign to
18 ensure that that person receives a timely and thorough response?

15:05:34 19 **A** Yes. I think it's a really good way to connect with -- with
20 folks.

15:05:38 21 **Q** If you would, please turn to Defendants' Exhibit 23.

15:05:51 22 Can you tell me: Who is Mary Grace Landrum?

15:05:54 23 **A** She was one of my supporters.

15:05:56 24 **Q** And had Ms. Landrum previously been on the SBISD school
25 board?

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1 A Yes.

2 Q This e-mail looks like it was sent during your 2021 campaign
3 in April. That's pretty close to election time, right?

4 A Yes.

5 Q And it looks like it's inviting you to something called the
6 Village Republican Women's anniversary luncheon; is that
7 correct?

8 A Yes.

9 Q Do you know what the Village Republican Women are?

10 A Yes.

11 Q What is it?

12 A It's a group of Republican women that get -- they have an
13 organization together, and I believe they get together to do
14 fundraising and some other activities. I have attended that
15 before in my previous campaign. I attended that event before to
16 come and speak.

17 Q Did you attend in 2021?

18 A No. I was in communication with Mary Grace, and she was --
19 they were working to create a policy to deny me access and
20 entry.

21 Q And was it your understanding that that was because the
22 Village Republican Women did not support your candidacy?

23 A They said it was because I was a Democrat.

24 Q During your campaign, you had various supporters and
25 endorsements, and your counsel put that up there earlier, but

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1 I'll just ask you about a couple of them.

15:07:22 2 A Uh-huh.

15:07:23 3 Q One is Ms. Diana Alexander.

15:07:25 4 Is it correct that one of your campaign supporters in 2021
5 was Diana Alexander?

15:07:29 6 A Yes, she endorsed me.

15:07:31 7 Q And is it correct that Diana Alexander ran for the
8 Democratic nomination in the Texas Congressional District 38
9 race?

15:07:40 10 A Yes, I believe she did.

15:07:44 11 Q Do you recall doing an interview with Diana Alexander in a
12 video that was published online?

15:07:50 13 A Yes. She invited me to do an interview.

15:07:53 14 Q Did your opponent do an interview with Diana Alexander?

15:07:57 15 A I don't believe so.

15:08:01 16 Q If you would, look at Defendants' Exhibit 16.

15:08:11 17 Can you tell me what this document is?

15:08:15 18 A Yes. This was a document that was provided to me by the
19 Texas AFL-CIO, and it had some verbiage in it that you could
20 utilize if you wanted to share with everyone that they had
21 endorsed you.

15:08:33 22 Q So is it correct, then, from the title that says
23 "Congratulations on your Endorsement by the Texas Gulf Coast
24 Area Labor Federation," that you were formally endorsed by this
25 group?

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1 5:08:45 1 A I was endorsed by them, yes.

1 5:08:46 2 Q What did you have to do to obtain their endorsement?

1 5:08:50 3 A They did an interview.

1 5:08:53 4 Q And I take it, from their endorsement of you, that they
5 didn't endorse your opponent, Chris Earnest, right?

1 5:08:59 6 A No, because they endorsed me.

1 5:09:08 7 Q Would you agree that your endorsement by this group became a
8 controversial point in the 2021 election?

1 5:09:14 9 A Well, I don't know if it was that specific group, but the
10 word "unions" and how I was going to bring unions into the
11 district, that was the argument.

1 5:09:21 12 Q And this group is a union, correct?

1 5:09:24 13 A Yes, it is.

1 5:09:25 14 Q You also testified that -- or I should say on your list, I
15 believe, Mr. Shaddix was listed as a supporter of your campaign;
16 is that correct?

1 5:09:35 17 A Yes.

1 5:09:36 18 Q And Mr. Shaddix is an Anglo or Caucasian voter?

1 5:09:39 19 A Yes, he is.

1 5:09:41 20 Q And during the 2021 election, in fact, you were endorsed by
21 six of the seven sitting SBISD board members, correct?

1 5:09:51 22 A Yes, I was.

1 5:09:52 23 Q And the only one who didn't endorse you was Josef Klam, who
24 didn't endorse anyone, correct?

1 5:09:58 25 A Yes, that's true.

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Q And of the six board members that endorsed you, all six of them were Caucasian, correct?

A Yes, they were.

Q If you would -- we're going to put up Defendants' Exhibit 17.

This graphic represents campaign materials that were published during your 2021 campaign, correct?

A Yes.

Q And this was created by someone who was working on your campaign, right?

A Yes.

Q And this was published on your campaign Facebook page?

A I believe it was.

Q In the first box on the right-hand side, the right-hand column says, "A school board CANNOT," and the first box says: (As read) The school board cannot change a mask mandate handed down by the state. The superintendent works with the Texas Education Agency, TEA, and medical advisers to make the best decisions for the district.

Was the issue of COVID masks at school an important issue to voters in the 2021 board election?

A It was a topic that was discussed.

Q Is that why you felt the need to publish materials that talked about masks at school?

A Yeah. I thought it was important for people to -- again, to

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be informed about what a school board's duties are and what they are capable of helping with and not helping with.

Q Was it your understanding that your opponent, Chris Earnest, was very vocal about not wanting kids to have to wear masks at school?

A I believe so. I definitely heard it from his supporters.

Q Let's look at the third box, which says "establish a union." So a school board cannot establish a union. (As read) Teachers' unions in Texas do not have collective bargaining power. It's against state law, and union membership is not compulsory.

By the time you published these materials, had the issue of union involvement in schools become a hot-button issue in the 2021 trustee election?

A Yeah. Those union -- the union piece was something that they were talking about, about me and my campaign, in a negative way.

Q And when you were a teacher, you were a member of the Spring Branch AFT, correct?

A Yes, I was.

Q The fourth box says: (As read) School board cannot represent only the interests of one sector or segment of the district.

Would you agree with the statement that a school board represents the entire -- all kids in the district regardless of where that school board member lives?

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1 5:12:58 1 A If a school board member is at-large, then he definitely
2 and -- well, all school board members should ensure or work
3 towards ensuring all children are successful in a school
4 district.

1 5:13:12 5 Q So whether at-large or from a single-member district,
6 whether they live north of I-10, south of I-10, east or west,
7 all board members are -- are charged with the duty of
8 representing and doing what's best for all kids, correct?

1 5:13:25 9 A Well, without having those varying perspectives, they can do
10 the best of their ability.

1 5:13:31 11 Q There's -- that's what they're charged with doing, right?

1 5:13:34 12 A That's what the charge is.

1 5:13:36 13 Q If we could look at Defendants' Exhibit 18.

1 5:13:42 14 We saw this a moment ago.

1 5:13:46 15 Do you recognize this as campaign material produced by your
16 campaign?

1 5:13:50 17 A Yes.

1 5:13:53 18 Q Is it correct that you felt the need to put these
19 statements -- these myth/fact statements about the school board
20 elections being nonpartisan because you were hearing about the
21 Republican endorsement of your opponent?

1 5:14:08 22 A Yes. When I heard about the Republican endorsement, this
23 was trying to go out there and remind people that these -- these
24 races are nonpartisan, and they're nonpartisan for a reason
25 because we should all be working towards -- regardless of

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1 political party, to help every student in Spring Branch ISD.

15:14:30 2 Q And by "nonpartisan," you mean there's not a R or a D or an
3 I next to the candidate's name on the ballot, correct?

15:14:36 4 A Exactly. Which is why you see my endorsement list is mixed
5 with people who are affiliated with different political parties.

15:14:42 6 Q Do you believe, in the 2021 election, that Chris Earnest's
7 campaign introduced partisan politics into the campaign?

15:14:49 8 A I think that that was a campaign we first saw -- or that I
9 first saw a Republican endorsement.

15:14:57 10 Q And do you believe that that -- well, let me ask this
11 question first: Who did the Republican Party endorse in that
12 election?

15:15:09 13 A Mr. Earnest.

15:15:10 14 Q Do you believe that political party endorsements were an
15 important factor for voters in the 2021 election?

15:15:17 16 A I don't know if I can say that.

15:15:23 17 THE COURT: We're going to stop for the day.

15:15:24 18 You can return to your seat.

15:15:28 19 How we doing scheduling-wise on your --

15:15:31 20 MR. ABRAMS: We're doing well, and we were debating
21 where we were going to be. We have four short fact witnesses,
22 and Dr. Stein.

15:15:42 23 THE COURT: Okay. So you'll finish tomorrow.

15:15:44 24 MR. ABRAMS: That's our plan.

15:15:47 25 MR. SCOTT: We -- so long as the cross doesn't --

1 **THE COURT:** Could you use a microphone? I can't hear
2 you.

3 **MR. SCOTT:** I'm sorry, Your Honor.

4 So long as the cross isn't a lot longer with
5 Dr. Elizondo in the morning, we'll start at 8:30 with the first
6 of the fact witnesses. None should be more than 25 minutes on
7 direct, and there are four total.

8 **THE COURT:** Okay. Let me just point out that I am
9 trying to pay attention, and repetition is not one of my
10 preferred means of persuasion, okay?

11 **MR. SCOTT:** Your Honor, we understand entirely. Our
12 concern, obviously, is making a record because we know the
13 Court's heard it.

14 **THE COURT:** I know. You're trying to convince me, and
15 you're trying to protect what you hope will be the result before
16 the Fifth Circuit. I understand that.

17 **MR. SCOTT:** We're trying to consolidate our questions
18 as much as we can so that they are much quicker.

19 **THE COURT:** Okay. And so we'll finish the plaintiff's
20 case tomorrow.

21 **MR. HENRY:** Your Honor, I have one scheduling issue to
22 ask about. We have a witness coming in from out of town. We
23 had previously conferred with Mr. Abrams about calling her out
24 of order tomorrow, if possible. So she's -- she will be here in
25 the morning tomorrow --

15:16:56 1 THE COURT: Who is she?

15:16:57 2 MR. HENRY: -- if you want to call her out of order
3 still.

15:17:00 4 THE COURT: Here's my question: Somebody said they
5 had a witness who could only be here Friday. I'm trying to find
6 out if that's still the case.

15:17:07 7 MR. ABRAMS: I think that -- I believe that's his
8 Wednesday -- I think that's his witness for tomorrow.

15:17:12 9 MR. HENRY: We moved her to tomorrow because of the
10 way the schedule had been proposed. So we moved her.

15:17:19 11 THE COURT: Who is she, and what's she going to
12 testify about?

15:17:22 13 MR. HENRY: She is a corporate representative for the
14 school district. She's going to testify on the list of topics
15 that was designated by the plaintiff as deposition topics, and
16 then she --

15:17:33 17 THE COURT: Where is she coming from?

15:17:34 18 MR. HENRY: She's coming from Boerne. She's the
19 superintendent of Boerne ISD now.

15:17:38 20 THE COURT: Okay. Well, can't you work out --

15:17:41 21 MR. ABRAMS: We'll figure out how to work it out.

15:17:43 22 THE COURT: So I'm just -- is it likely that we'll go
23 into Friday?

15:17:47 24 MR. ABRAMS: I believe it is in light of -- especially
25 in light of that. They haven't yet started their case,

1 Your Honor.

15:17:52 2 **THE COURT:** Okay. All right. We'll see you at
3 8:30 tomorrow morning.

15:17:56 4 **MR. HENRY:** Thank you.

15:17:57 5 *(Evening recess taken at 3:17 p.m.)*

6 -o0o-

7 I certify that the foregoing is a correct transcript
8 from the record of proceedings in the above matter.

9
10 Date: September 18, 2024

11 /s/Heather Alcaraz
12 Signature of Court Reporter
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MR. ABRAMS: [111] 8/3
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